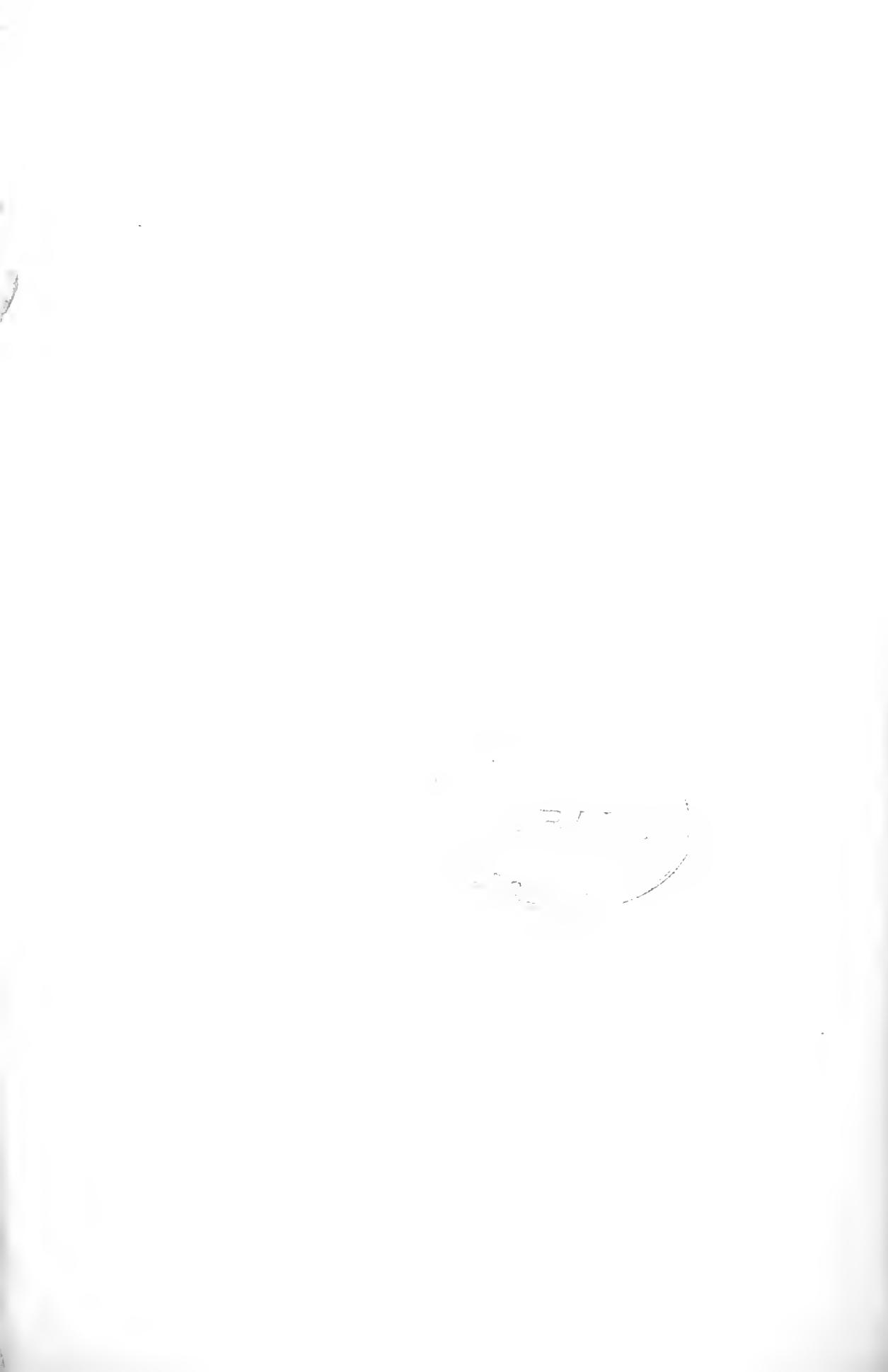




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74TH CONGRESS
1ST SESSION

H. R. 8974

TEASURY DEPARTMENT

IN THE HOUSE OF REPRESENTATIVES

JULY 29, 1935

1 Doughton introduced the following bill; which was referred to the Committee on Ways and Means and ordered to be printed

A BILL

To provide revenue, equalize taxation, and for other purposes.

1 *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*
2 *That this Act may be cited as the "Revenue Act of 1935".*

4 **TITLE I—INCOME AND EXCESS-PROFITS
TAXES**

6 **SEC. 101. SURTAXES ON INDIVIDUALS**

7 Section 12 (b) of the Revenue Act of 1934 is amended
8 by striking out all after the bracket—
9 “\$6,080 upon surtax net incomes of \$44,000; and
10 upon surtax net incomes in excess of \$44,000 and not in

1 excess of \$50,000, 27 per centum in addition of such
2 excess."

3 and inserting in lieu thereof the following:

4 " \$7,700 upon surtax net incomes of \$50,000; and upon
5 surtax net incomes in excess of \$50,000 and not in excess
6 of \$56,000, 31 per centum in addition of such excess.

7 " \$9,560 upon surtax net incomes of \$56,000; and upon
8 surtax net incomes in excess of \$56,000 and not in excess
9 of \$62,000, 35 per centum in addition of such excess.

10 " \$11,660 upon surtax net incomes of \$62,000; and
11 upon surtax net incomes in excess of \$62,000 and not in
12 excess of \$68,000, 39 per centum in addition of such excess.

13 " \$14,000 upon surtax net incomes of \$68,000; and
14 upon surtax net incomes in excess of \$68,000 and not in
15 excess of \$74,000, 43 per centum in addition of such excess.

16 " \$16,580 upon surtax net incomes of \$74,000; and
17 upon surtax net incomes in excess of \$74,000 and not in
18 excess of \$80,000, 47 per centum in addition of such excess.

19 " \$19,400 upon surtax net incomes of \$80,000; and
20 upon surtax net incomes in excess of \$80,000 and not in
21 excess of \$90,000, 51 per centum in addition of such excess.

22 " \$24,500 upon surtax net incomes of \$90,000; and
23 upon surtax net incomes in excess of \$90,000 and not in
24 excess of \$100,000, 55 per centum in addition of such excess.

1 “ \$30,000 upon surtax net incomes of \$100,000; and
2 upon surtax net incomes in excess of \$100,000 and not in
3 excess of \$150,000, 58 per centum in addition of such excess.

4 “ \$59,000 upon surtax net incomes of \$150,000; and
5 upon surtax net incomes in excess of \$150,000 and not in
6 excess of \$200,000, 60 per centum in addition of such
7 excess.

8 “ \$89,000 upon surtax net incomes of \$200,000;
9 and upon surtax net incomes in excess of \$200,000 and
10 not in excess of \$250,000, 62 per centum in addition of
11 such excess.

12 “ \$120,000 upon surtax net incomes of \$250,000;
13 and upon surtax net incomes in excess of \$250,000 and
14 not in excess of \$300,000, 64 per centum in addition of
15 such excess.

16 “ \$152,000 upon surtax net incomes of \$300,000; and
17 upon surtax net incomes in excess of \$300,000 and not in
18 excess of \$400,000, 66 per centum in addition of such excess.

19 “ \$218,000 upon surtax net incomes of \$400,000; and
20 upon surtax net incomes in excess of \$400,000 and not in
21 excess of \$500,000, 68 per centum in addition of such excess.

22 “ \$286,000 upon surtax net incomes of \$500,000; and
23 upon surtax net incomes in excess of \$500,000 and not in
24 excess of \$750,000, 70 per centum in addition of such excess.

1 “ \$461,000 upon surtax net incomes of \$750,000; and
2 upon surtax net incomes in excess of \$750,000 and not in
3 excess of \$1,000,000, 72 per centum in addition of such
4 excess.

5 “ \$641,000 upon surtax net incomes of \$1,000,000; and
6 upon surtax net incomes in excess of \$1,000,000 and not in
7 excess of \$2,000,000, 73 per centum in addition of such
8 excess.

9 “ \$1,371,000 upon surtax net incomes of \$2,000,000;
10 and upon surtax net incomes in excess of \$2,000,000 and
11 not in excess of \$5,000,000, 74 per centum in addition of
12 such excess.

13 “ \$3,591,000 upon surtax net incomes of \$5,000,000;
14 and upon surtax net incomes in excess of \$5,000,000,
15 75 per centum in addition of such excess.”

16 **SEC. 102. INCOME TAXES ON CORPORATIONS**

17 (a) Section 13 (a) of the Revenue Act of 1934 is
18 amended to read as follows:

19 “(a) RATE OF TAX.—There shall be levied, collected,
20 and paid for each taxable year upon the net income (in
21 excess of the credit against net income provided in section
22 26) of every corporation, a tax as follows:

23 “ Upon net incomes not in excess of \$15,000, 13 $\frac{1}{4}$ per
24 centum.

1 " \$1,987.50 upon net incomes of \$15,000; and upon
2 net incomes in excess of \$15,000, $14\frac{1}{4}$ per centum in
3 addition of such excess."

4 (b) Section 141(c) of the Revenue Act of 1934 is
5 amended by striking out "except that there shall be added
6 to the rate of tax prescribed by section 13(a) a rate of
7 2 per centum, but the tax at such increased rate shall be
8 considered as imposed by section 13(a)" and by inserting
9 in lieu thereof the following: "except that the rate of tax
10 shall be $15\frac{3}{4}$ per centum, in lieu of the rates prescribed by
11 section 13(a), but the tax at such rate of $15\frac{3}{4}$ per centum
12 shall be considered as imposed by section 13(a)".

13 SEC. 103. INCOME TAX ON LIFE INSURANCE COMPANIES

14 Sections 201 (b) (1) and (2) of the Revenue Act of
15 1934 are amended by striking out "13 $\frac{3}{4}$ per centum of"
16 and inserting in lieu thereof "a tax at the rates specified
17 in section 13 upon".

18 SEC. 104. INCOME TAX ON INSURANCE COMPANIES OTHER
19 THAN LIFE OR MUTUAL

20 Sections 204(a) (1) and (2) of the Revenue Act of
21 1934 are amended by striking out "13 $\frac{3}{4}$ per centum of"
22 and inserting in lieu thereof "a tax at the rates specified
23 in section 13 upon".

1 SEC. 105. EXCESS-PROFITS TAX

2 Section 702 of the Revenue Act of 1934 is amended
3 to read as follows:

4 SEC. 702. EXCESS-PROFITS TAX

5 “(a) There is hereby imposed upon the net income
6 of every corporation for each income-tax taxable year end-
7 ing after the close of the first year in respect of which it
8 is taxable under section 701, an excess-profits tax equal
9 to the sum of the following:

10 “5 per centum of such portion of its net income for
11 such income-tax taxable year as is in excess of 8 per centum
12 and not in excess of 12 per centum of the adjusted declared
13 value;

14 “10 per centum of such portion of its net income for
15 such income-tax taxable year as is in excess of 12 per centum
16 and not in excess of 16 per centum of the adjusted declared
17 value;

18 “15 per centum of such portion of its net income for
19 such income-tax taxable year as is in excess of 16 per
20 centum and not in excess of 25 per centum of the adjusted
21 declared value;

22 “20 per centum of such portion of its net income for
23 such income-tax taxable year as is in excess of 25 per
24 centum of the adjusted declared value.

1 “(b) The adjusted declared value shall be determined
2 as provided in section 701 as of the close of the preceding
3 income-tax taxable year (or as of the date of organization
4 if it had no preceding income-tax taxable year). If the
5 income-tax taxable year in respect of which the tax under
6 this section is imposed is a period of less than 12 months,
7 such adjusted declared value shall be reduced to an amount
8 which bears the same ratio thereto as the number of months
9 in the period bears to 12 months. For the purposes of this
10 section the net income shall be the same as the net income
11 for income tax purposes for the year in respect of which
12 the tax under this section is imposed.

13 “(c) All provisions of law (including penalties) ap-
14 plicable in respect of the taxes imposed by Title I of this
15 Act, shall, insofar as not inconsistent with this section, be
16 applicable in respect of the tax imposed by this section,
17 except that the provisions of section 131 of that title shall
18 not be applicable.”

19 **SEC. 106. TAXABLE YEARS TO WHICH APPLICABLE**

20 The amendments made by sections 101, 102, 103,
21 and 104 shall apply only in the case of taxable years begin-
22 ning after December 31, 1935, and the amendment made
23 by section 105 shall apply only in the case of income-tax
24 taxable years ending after June 30, 1936.

TITLE II—INHERITANCE TAX**SEC. 201. DEFINITIONS**

When used in this title—

(a) The term “executor” means the executor of the decedent’s will or the administrator of his estate, and, if there is no executor or administrator appointed, qualified and acting within the United States with respect to any property the transfer of which is subject to the tax imposed by this title, any person in actual or constructive possession of such property.

(b) The term “month” means calendar month.

(c) The term “collector” means the collector of internal revenue of the district in which was the domicile of the decedent at the time of his death, or if there was no such domicile in the United States, then the collector of the district in which is situated the property the transfer of which is subject to the tax imposed by this title, or if there is property so subject which is situated in more than one district or is situated outside the United States, then the collector of internal revenue of such district as may be designated by the Commissioner.

(d) The term “beneficiary” means any person beneficially entitled to any property the transfer of which is subject to the tax imposed by this title.

1 (e) The term "property" means any property, real
2 or personal, tangible or intangible, or any interest therein
3 or income therefrom. Any right in respect of any property
4 which, however exercisable, is exercisable by the holder
5 of the right (either alone or in conjunction with any other
6 person) in favor of such holder, in favor of his estate, or
7 in favor of one or more of his creditors shall, for the pur-
8 poses of this title, be deemed the equivalent of such property.

9 **SEC. 202. IMPOSITION OF TAX**

10 (a) **GENERAL RULE.**—There is hereby imposed upon
11 the right to receive or acquire any property, wherever situ-
12 ated (except real property situated outside the United
13 States), transferred, in trust or otherwise, by reason of the
14 death of a resident or citizen of the United States, or any
15 property, situated in the United States, transferred, in trust
16 or otherwise, by reason of the death of a nonresident of the
17 United States, not a citizen thereof, a tax equal to the sum
18 of the following percentages of the total net value of the
19 beneficial interests transferred, in trust or otherwise, by rea-
20 son of the death of such decedent to each beneficiary:

21 Upon a total net value not in excess of \$10,000, 4
22 per centum.

23 \$400 upon a total net value of \$10,000; and upon
24 a total net value in excess of \$10,000 and not in excess
25 of \$20,000, 8 per centum in addition of such excess.

1 \$1,200 upon a total net value of \$20,000; and upon
2 a total net value in excess of \$20,000 and not in excess
3 of \$30,000, 12 per centum in addition of such excess.

4 \$2,400 upon a total net value of \$30,000; and upon
5 a total net value in excess of \$30,000 and not in excess
6 of \$50,000, 16 per centum in addition of such excess.

7 \$5,600 upon a total net value of \$50,000; and upon
8 a total net value in excess of \$50,000 and not in excess
9 of \$100,000, 20 per centum in addition of such excess.

10 \$15,600 upon a total net value of \$100,000; and upon
11 a total net value in excess of \$100,000 and not in excess
12 of \$150,000, 24 per centum in addition of such excess.

13 \$27,600 upon a total net value of \$150,000; and upon
14 a total net value in excess of \$150,000 and not in excess
15 of \$250,000, 28 per centum in addition of such excess.

16 \$55,600 upon a total net value of \$250,000; and upon
17 a total net value in excess of \$250,000 and not in excess
18 of \$400,000, 32 per centum in addition of such excess.

19 \$103,600 upon a total net value of \$400,000; and upon
20 a total net value in excess of \$400,000 and not in excess of
21 \$700,000, 36 per centum in addition of such excess.

22 \$211,600 upon a total net value of \$700,000; and upon
23 a total net value in excess of \$700,000 and not in excess of
24 \$1,000,000, 40 per centum in addition of such excess.

1 \$331,600 upon a total net value of \$1,000,000; and
2 upon a total net value in excess of \$1,000,000 and not in
3 excess of \$1,500,000, 44 per centum in addition of such
4 excess.

5 \$551,600 upon a total net value of \$1,500,000; and
6 upon a total net value in excess of \$1,500,000 and not in
7 excess of \$2,000,000, 48 per centum in addition of such
8 excess.

9 \$791,600 upon a total net value of \$2,000,000; and
10 upon a total net value in excess of \$2,000,000 and not in
11 excess of \$3,000,000, 52 per centum in addition of such
12 excess.

13 \$1,311,600 upon a total net value of \$3,000,000; and
14 upon a total net value in excess of \$3,000,000 and not in
15 excess of \$4,000,000, 56 per centum in addition of such
16 excess.

17 \$1,871,600 upon a total net value of \$4,000,000; and
18 upon a total net value in excess of \$4,000,000 and not in
19 excess of \$5,000,000, 60 per centum in addition of such
20 excess.

21 \$2,471,600 upon a total net value of \$5,000,000; and
22 upon a total net value in excess of \$5,000,000 and not in
23 excess of \$6,000,000, 64 per centum in addition of such
24 excess.

1 \$3,111,600 upon a total net value of \$6,000,000; and
2 upon a total net value in excess of \$6,000,000 and not in
3 excess of \$8,000,000, 68 per centum in addition of such
4 excess.

5 \$4,471,600 upon a total net value of \$8,000,000; and
6 upon a total net value in excess of \$8,000,000 and not in
7 excess of \$10,000,000, 72 per centum in addition of such
8 excess.

9 \$5,911,600 upon a total net value of \$10,000,000;
10 and upon a total net value in excess of \$10,000,000, 75 per
11 centum in addition of such excess.

12 (b) CORPORATIONS FOR AVOIDING TAX.—If any
13 corporation is formed or availed of for the purpose of avoid-
14 ing the tax imposed by subsection (a), or any part thereof,
15 the rate of tax on such corporation shall be 80 per centum
16 of the total net value of the beneficial interests in lieu of
17 the rate provided in such subsection.

18 (c) FAMILY CORPORATIONS.—If an interest or con-
19 trol, direct or indirect, of 50 per centum or more in any
20 corporation exists in any one or more of the persons bearing
21 the relationship to the decedent specified in section 205 (b)
22 as entitling them to a specific exemption of \$50,000, the
23 rate of tax on such corporation shall be 80 per centum of
24 the total net value of the beneficial interests in lieu of the
25 rate provided in subsection (a), unless such corporation

1 establishes to the satisfaction of the Commissioner that it
2 has not been formed or availed of for the purpose of avoiding
3 the tax imposed by subsection (a), or any part thereof.

4 (d) CREDIT FOR GIFT TAX.—If a tax has been
5 paid under Title III on the receipt of a gift, and there-
6 after upon the death of the donor any amount in
7 respect of such gift is required to be included in the
8 gross value of the beneficial interests received from the
9 decedent by the donee for the purposes of this title, then
10 there shall be credited against the tax upon such donee im-
11 posed by this title the amount of the tax paid under Title
12 III with respect to so much of the property which con-
13 stituted the gift received as is included in the gross value of
14 the beneficial interests received from the decedent, except
15 that the amount of such credit shall not exceed an amount
16 which bears the same ratio to the tax imposed by this title as
17 the value (at the time of the gift or at the time of the death,
18 whichever is lower) of so much of the property which con-
19 stituted the gift received as is included in the beneficial
20 interests received from the decedent, bears to the gross value
21 of the beneficial interest received by the beneficiary. For the
22 purposes of computing this credit, the amount of tax paid for
23 any year under Title III with respect to any property shall
24 be an amount which bears the same ratio to the total tax

1 paid for such year as the value of such property included
2 in the total amount of gifts received bears to the total amount
3 of net gifts received (computed without deduction of the
4 specific exemption) for such year.

5 **SEC. 203. TAXABLE AND NONTAXABLE TRANSFERS**

6 (a) **TAXABLE TRANSFERS.**—For the purposes of this
7 title, there shall be considered as transfers by reason of the
8 death of a decedent—

9 (1) **WILL OR INTESTACY.**—A transfer by
10 will or by the laws of intestate succession when the
11 death of the decedent was after the enactment of this
12 Act;

13 (2) **CONTEMPLATION OF DEATH.**—A trans-
14 fer by the decedent before his death but after the
15 enactment of this Act in contemplation of his death. A
16 transfer of a material part of his property in the nature
17 of a final disposition or distribution thereof, made by
18 the decedent within two years prior to his death shall
19 be deemed, unless shown to the contrary, to have been
20 made in contemplation of his death;

21 (3) **TAKING EFFECT AT OR AFTER DEATH.**—
22 A transfer by the decedent before his death but
23 after the enactment of this Act with the intention
24 that it should take effect in possession or enjoyment at
25 or after his death, including a transfer under which the

1 decedent retained for his life, or for any period not
2 ascertainable without reference to his death, or for a
3 period of such duration as to evidence an intention that
4 he should retain for his life (A) the possession or
5 enjoyment of, or the right to the income from the
6 transferred property, or (B) the right, either alone or
7 in conjunction with any person, to designate the per-
8 sons who shall possess or enjoy the property or the
9 income therefrom;

10 (4) POWERS OF APPOINTMENT, AND SO FORTH.—
11 A transfer by the decedent, either before or after the
12 enactment of this Act, if his death occurred after such
13 enactment, and if at his death he had, either
14 alone or in conjunction with any person, the right to
15 designate or appoint to whom the property should pass
16 at or after his death; or if at his death the enjoyment
17 of the property was subject to any change through the
18 exercise of a power, either by decedent alone or in
19 conjunction with any person, to alter, amend, or re-
20voke; or if any such right to designate or appoint,
21 or any such power to alter, amend, or revoke,
22 was relinquished by the decedent after the enact-
23 ment of this Act in contemplation of his death. For
24 the purposes of this subsection the power to alter,
25 amend, or revoke shall be considered to exist on the

1 date of the decedent's death even though the exercise
2 of the power is subject to a precedent giving of notice,
3 or even though the alteration, amendment, or revoca-
4 tion takes effect only at the expiration of a stated
5 period after the exercise of the power, whether or not
6 on or before the date of the decedent's death notice
7 has been given or the power has been exercised. In
8 such cases proper adjustment shall be made represent-
9 ing the interests which would have been excluded from
10 the power if the decedent had lived, and for such pur-
11 pose if the notice has not been given or the power has
12 not been exercised on or before the date of his death,
13 such notice shall be considered to have been given, or
14 the power exercised, on the date of his death;

15 (5) RIGHTS EXERCISABLE BY DECEDENT.—

16 The receipt of property (A) which at the death
17 of a decedent dying after the enactment of this
18 Act was subject to a right (created by any person
19 other than the decedent) which, however exercisable,
20 was exercisable by the decedent (either alone or in
21 conjunction with any other person) in his own favor,
22 in favor of his estate, or in favor of one or more of his
23 creditors, whether the right was or was not in fact
24 exercised, or (B) which was ever subject to such a
25 right (1) if such right was exercised or relinquished

1 by such decedent before his death and after the enact-
2 ment of this Act in any manner described in para-
3 graphs (2) and (3) of this subsection, or (2) if such
4 right was exercised by the decedent either before or
5 after the enactment of this Act and there existed at the
6 decedent's death after the enactment of this Act, any
7 right to designate or appoint or any power to alter,
8 amend, or revoke, of the kind described in paragraph
9 (4) of this subsection, or if any such right or power was
10 exercised or relinquished by the decedent after the
11 enactment of this Act in contemplation of his death;

12 (6) ACCRUAL THROUGH SURVIVORSHIP.—The
13 accrual, by reason of the death of a decedent, dying
14 after the enactment of this Act, and through sur-
15 vivorship, to a surviving tenant or depositor of
16 property held as joint tenants by the decedent and
17 any other person, or as tenants by the entirety
18 by the decedent and spouse, or deposited with
19 any person carrying on a banking business in their
20 joint names and payable to either or the survivor,
21 except such part thereof as may be shown to have
22 originally belonged to such other person and never to
23 have been received or acquired by the latter from the
24 decedent for less than a full and adequate consideration
25 in money or money's worth. Where such property or

1 any part thereof or part of the consideration with which
2 such property was acquired is shown to have been at
3 any time acquired by such other person from the
4 decedent for less than a full and adequate consideration
5 in money or money's worth, there shall be excepted
6 only such part of the value of such property as is pro-
7 portionate to the consideration furnished by such other
8 person. Where any property has been acquired by
9 gift, bequest, devise, or inheritance, as a tenancy by
10 the entirety by the decedent and spouse, then it shall
11 be deemed to have accrued to the survivor to the extent
12 of one-half of the value thereof, or, where so acquired
13 by the decedent and any other person as joint tenants
14 or owners and their interests are not otherwise specified
15 or fixed by law, then to the extent of the value of a
16 fractional part to be determined by dividing the value
17 of the decedent's interest by the number of the other
18 joint tenants or owners;

19 (7) INSURANCE.—The receipt by any person of
20 the proceeds of insurance under policies taken out by
21 the decedent upon his own life, even though at the time
22 of the decedent's death he did not have the right to
23 change the beneficiary or have any legal incident of
24 ownership; and

1 (8) DISCHARGE OF CLAIMS.—The receipt by any
2 person of property in discharge, in whole or in part,
3 of any claim against the whole or any part of the estate
4 of a decedent dying after the enactment of this Act
5 founded upon a promise or agreement not contracted
6 for an adequate and full consideration in money or
7 money's worth.

8 (b) DOWER, AND SO FORTH, NOT TAXABLE.—For
9 the purposes of this title, the consummation in a surviving
10 spouse of dower, courtesy, or of a statutory estate created
11 in lieu of dower or courtesy, or the receipt by a surviving
12 spouse of an equivalent amount of property elected, after
13 the death of the decedent, in lieu of any of the foregoing
14 shall not be considered as a transfer by reason of the death
15 of a decedent.

16 (c) CHARITABLE, AND SO FORTH, TRANSFERS.—There
17 shall be exempt from the tax imposed by this title, transfers
18 to or for the use of—

19 (1) the United States, any State, Territory, or
20 any political subdivision thereof, or the District of
21 Columbia, for exclusively public purposes;

22 (2) a domestic corporation organized and oper-
23 ated exclusively for religious, charitable, scientific, lit-
24 erary, or educational purposes, including the encourage-

1 ment of art and the prevention of cruelty to children
2 or animals; no part of the net earnings of which inures
3 to the benefit of any private shareholder or individual;

4 (3) a trust, or community chest, fund, or founda-
5 tion, organized and operated exclusively for religious,
6 charitable, scientific, literary, or educational purposes,
7 including the encouragement of art and the prevention
8 of cruelty to children or animals; but only if such gifts
9 are to be used within the United States exclusively
10 for such purposes;

11 (4) a fraternal society, order, or association,
12 operating under the lodge system, but only if such gifts
13 are to be used within the United States exclusively for
14 religious, charitable, scientific, literary, or educational
15 purposes, including the encouragement of art and the
16 prevention of cruelty to children or animals;

17 (5) posts or organizations of war veterans, or
18 auxiliary units or societies of any such posts or organ-
19 izations, if such posts, organizations, units, or societies
20 are organized in the United States or any of its posses-
21 sions, and if no part of their net earnings inures to the
22 benefit of any private shareholder or individual;

23 (6) the special fund for vocational rehabilitation
24 authorized by section 12 of the World War Veterans'
25 Act, 1924.

1 (d) CONSIDERATION FOR TRANSFERS.—If any transfer
2 described in paragraph (2), (3), or (4) of subsection
3 (a) of this section is made, or any right or power de-
4 scribed in such paragraph (4) is relinquished, or any
5 power described in paragraph (5) of subsection (a) of
6 this section is relinquished or exercised, or the exercise
7 thereof is refrained from, for an adequate and full con-
8 sideration in money or money's worth received by the
9 decedent, no value in respect of the property passing or
10 affected thereby shall be included. In the case of any such
11 transfer for less than an adequate and full consideration, and
12 in the case of a transfer described in paragraph (8) of
13 subsection (a) of this section, only the excess of the
14 value of the beneficial interest over the consideration
15 received by the decedent, valued at the same date, shall be
16 included.

17 (e) SAME—RELINQUISHMENT OF MARITAL ES-
18 TATES.—For the purposes of this title, a relinquishment
19 or promised relinquishment of dower, courtesy, or a statu-
20 tory estate in lieu of dower or courtesy, shall be considered
21 consideration in money or money's worth only to the extent
22 of the value thereof at the time of the decedent's death, and
23 a relinquishment or promised relinquishment of other
24 marital rights in the decedent's property shall not be con-

1 sidered to any extent a consideration in money or money's
2 worth.

3 **SEC. 204. GROSS VALUE OF BENEFICIAL INTERESTS**

4 (a) **DATE OF DETERMINATION.**—The total gross
5 value of the beneficial interests transferred to each bene-
6 ficiary shall be determined as of the date of the decedent's
7 death.

8 (b) **INCLUSION OF TAX.**—A direction in the will
9 or instrument of transfer that the tax imposed by this title
10 with respect to any beneficial interest be paid otherwise than
11 out of such beneficial interest shall be considered as increas-
12 ing the amount of such beneficial interest by the amount
13 of such tax.

14 **SEC. 205. NET VALUE OF BENEFICIAL INTERESTS—DE-
15 DUCTIONS**

16 (a) **DEDUCTIONS.**—In determining the total net
17 value of the beneficial interests transferred to each
18 beneficiary, the following items (and no others) shall,
19 in addition to the specific exemption allowed in sub-
20 section (b), be allowed as deductions from the total gross
21 value of the beneficial interests, but only to the extent
22 that the item is, under the applicable law, properly
23 allocable to such beneficial interests, that such item does
24 not exceed the value of the parts of the beneficial interests

1 to which so allocable, and that such item has not been
2 taken into account in determining gross value:

3 (1) Funeral expenses;

4 (2) Administration expenses;

5 (3) Claims against the estate or any part thereof;

6 (4) Death duties actually paid under the law of
7 any jurisdiction (except death duties imposed under the
8 law of any jurisdiction outside the United States, in the
9 case of any beneficial interest transferred by reason of
10 the death of a nonresident, not a citizen of the United
11 States, and except the tax imposed by this title on the
12 beneficial interest);

13 (5) Amounts reasonably required and actually
14 expended for the support, during the settlement of the
15 estate, of those dependent upon the decedent, but so
16 much of the amount so expended with respect to any
17 individual in any year as exceeds \$10,000 shall be
18 added to the gross value of the beneficial interests of
19 such individual;

20 (6) Losses incurred during the settlement of the
21 estate arising from fires, storms, shipwrecks, or other
22 casualties, or from theft, when such losses are not com-
23 pensated for by insurance or otherwise, and if at the
24 time of the filing of the return such losses have not been

1 claimed as a deduction for income-tax purposes in an
2 income-tax return; and

3 (7) The net shrinkage in value of the total bene-
4 ficial interests of the beneficiary arising solely from the
5 difference in value of assets of the decedent's estate on
6 the date of death and the value of such assets one year
7 after the decedent's death (or date of sale or exchange
8 in the case of assets sold or exchanged during such
9 period), but only to the extent that such shrinkage is
10 not covered by any other deduction under this sub-
11 section.

12 (b) SPECIFIC EXEMPTIONS.—In addition to the de-
13 ductions allowed in subsection (a), there shall be allowed
14 as a deduction a specific exemption of \$10,000, except that
15 the specific exemption shall be \$50,000 in the case of a
16 surviving spouse, child (including a child legally adopted
17 before it attained the age of twenty-one), father, mother,
18 brother or sister (including a brother or sister of the half
19 blood), grandchild, grandfather, or grandmother.

20 (c) NONRESIDENT DECEDENTS.—In the case of
21 any property transferred by reason of the death of
22 a nonresident decedent not a citizen of the United
23 States, no deduction shall be allowed in computing
24 the value of any beneficial interest in such property unless
25 the executor includes in the return required to be filed under

1 section 208 the value of all property, wherever situated,
2 transferred by reason of the death of such decedent.

3 **SEC. 206. CONTINGENT ESTATES, AND SO FORTH**

4 (a) **VALUATION.**—The value of any beneficial interest
5 dependent upon any life or lives shall, so far as possible,
6 be determined in accordance with accepted actuarial prin-
7 ciples, and based upon such tables of mortality as the Com-
8 missioner shall from time to time adopt, and upon an interest
9 rate of 4 per centum per annum compounded annually,
10 or, if the beneficial interest is governed by a contract, then
11 upon such interest rate (determined in such manner as the
12 Commissioner shall by regulations prescribe) as is properly
13 applicable in valuing such beneficial interest. The value of
14 the beneficial interest remaining after such temporary bene-
15 ficial interest shall be determined by deducting the computed
16 value of such temporary interest from the value of the
17 entire property in which such remaining interest exists.

18 (b) **ESTATES WHICH MAY BE DIVESTED.**—Where
19 an estate or interest may be divested by the act or omission
20 of the beneficiary (whether alone or in conjunction with
21 any person), the tax shall be computed as if there were no
22 possibility of divesting.

23 (c) **COMPOSITION OF TAX.**—

24 (1) If the tax cannot be determined because of
25 a contingency, the Commissioner, with the approval of

1 the Secretary, may compromise the tax upon such
2 terms as he deems best in the interests of the United
3 States.

4 (2) If such compromise is not made the tax
5 shall be computed on the total net value of the bene-
6 ficial interests of each beneficiary whose tax liability
7 is in question, excluding the beneficial interest to which
8 the contingency relates.

9 (3) The remainder of the tax imposed by section
10 202 shall be held in abeyance until the contingency has
11 occurred. The Commissioner shall require such bond
12 as he deems necessary to secure the prompt payment of
13 any part of the tax so held in abeyance and in any case
14 of failure to file such bond, the tax shall be a tax
15 computed at the highest possible rate and such tax shall
16 be immediately payable.

17 (4) Within one year after the time of the occur-
18 rence of the contingency, a return with respect to the
19 tax held in abeyance shall be filed by the person liable
20 for the tax in such manner as the Commissioner, with
21 the approval of the Secretary, shall by regulations pre-
22 scribe. The tax imposed by section 202 shall be re-
23 computed as if no tax had been paid under paragraph
24 (2) of this subsection; the tax, if any, under paragraph
25 (2) shall be deducted from such recomputed tax; and

the remainder of the tax shall be due and payable at the time fixed for filing such return. The gross value of the beneficial interest with respect to which the tax was held in abeyance shall, for the purpose of recomputing the tax, be the gross value thereof as of the date of the death of the decedent computed as if the facts with respect to the occurrence of the contingency had been known on such date, and interest shall be collected, with respect to so much of the recomputed tax as was held in abeyance, at the rate of 4 per centum per annum, compounded annually, from the original due date of the tax to the due date of the recomputed tax.

13 SEC. 207. NONRESIDENT DECEDENTS NOT CITIZENS OF
14 THE UNITED STATES

15 (a) For the purposes of this title, stock in a domestic
16 corporation or any obligation of a resident, corporate or
17 otherwise, owned by a nonresident decedent, not a citizen
18 of the United States, shall be deemed property situated in
19 the United States, and any property of which the decedent
20 has made a transfer, in trust or otherwise, within the mean-
21 ing of section 203 (a) (2), (3), or (5), shall be deemed
22 to be situated in the United States, if so situated either at
23 the time of the transfer or at the time of the decedent's
24 death.

1 (b) The amount receivable as insurance upon the
2 life of a nonresident decedent not a citizen of the United
3 States, and any moneys deposited with any person carrying
4 on the banking business by or for a nonresident decedent
5 not a citizen of the United States who was not engaged in
6 business in the United States at the time of his death, shall
7 not, for the purpose of this title, be deemed property within
8 the United States.

9 **SEC. 208. RETURNS**

10 The executor, within two months after the decedent's
11 death, or within a like period after qualifying as such, shall
12 give written notice thereof to the collector. The executor
13 shall also file with the collector within eighteen months
14 after the death of the decedent a return under oath in dupli-
15 cate with respect to each person to whom property is trans-
16 ferred by reason of the death of a citizen or resident of the
17 United States, and with respect to each person to whom
18 property situated in the United States is transferred by
19 reason of the death of any other decedent, but in either case
20 only if the beneficial interests transferred to such person
21 exceed \$10,000 in total gross value, or comprise an interest
22 the tax with respect to which cannot be determined because
23 of a contingency. Such return shall be made in such
24 manner, and shall set forth such information, as the Com-
25 missioner, with the approval of the Secretary, shall by

1 regulations prescribe as necessary or appropriate for the
2 ascertainment or collection of the tax.

3 **SEC. 209. RECORDS AND SPECIAL RETURNS**

4 (a) **IN GENERAL.**—Every person liable to any tax
5 imposed by this title or for the collection thereof, or having
6 the title, possession, custody, or control of any property
7 transferred by reason of the death of the decedent, shall keep
8 such records, render under oath such statements, make such
9 returns, and comply with such rules and regulations, as the
10 Commissioner, with the approval of the Secretary, may
11 from time to time prescribe.

12 (b) **TO DETERMINE LIABILITY TO TAX.**—Whenever
13 in the judgment of the Commissioner necessary he may re-
14 quire any person, by notice served upon him, to make a
15 return, render under oath such statements, and keep such
16 records, as the Commissioner deems sufficient to show
17 whether or not such person is liable to tax under this title.

18 **SEC. 210. PAYMENT OF TAX**

19 (a) **COLLECTION AND DEDUCTION BY EXECUTOR.**—
20 The tax imposed by this title with respect to the beneficial in-
21 terests transferred to each beneficiary shall be collected by
22 the executor from such beneficiary or deducted and withheld
23 from any property in the executor's possession or control
24 transferred to such beneficiary. Each beneficiary shall be
25 liable to the executor for the tax imposed by this title upon

1 such beneficiary. Whenever there is a transfer of property
2 taxable under this title of which the executor has no posses-
3 sion or control, the person having possession or control
4 thereof, or under liability to make any payment to the
5 beneficiary, shall be liable to the executor for the tax upon
6 such transfer, and, unless the tax has been paid by the
7 beneficiary to the executor, shall collect or deduct it from
8 such property or such payment and pay it to the executor:
9 *Provided, however,* That the Comissioner may, with the
10 approval of the Secretary, by regulations authorize the pay-
11 ment of such tax directly to the collector and relieve the
12 executor from liability therefor. This subsection shall not
13 apply to the portion of tax held in abeyance under section
14 206.

15 (b) TAX COLLECTIBLE OUT OF PROPERTY.—All
16 taxes under this title may be collected out of the real or
17 personal property in which the respective beneficial interests
18 exist. Nothing in this title shall prevent an executor from
19 paying taxes out of such property as the will or other instru-
20 ment under which transfer is made shall direct, but such
21 directions shall not affect any right of the United States or of
22 the collector to collect the tax or to a lien therefor.

23 (c) PAYMENT BY EXECUTOR.—The executor shall be
24 liable for the tax required to be so collected or withheld by
25 him, and shall pay such tax to the collector not later than

1 eighteen months after the decedent's death. If the Com-
2 missioner is satisfied that the tax liability has been fully dis-
3 charged or provided for he shall, under regulations pre-
4 scribed by him with the approval of the Secretary, issue his
5 certificate discharging the executor from the liability for tax
6 imposed by this subsection.

7 (d) REIMBURSEMENT OF BENEFICIARY.—If the
8 amount of tax paid or collected out of property trans-
9 ferred to any beneficiary exceeds the amount of tax for
10 which such beneficiary is liable, such beneficiary shall be
11 entitled to reimbursement to the extent of such excess out
12 of any part of the estate still undistributed, or to a just
13 and equitable contribution by the persons liable for the tax so
14 paid or collected under this title.

15 (e) PERSONAL LIABILITY OF BENEFICIARY.—If the
16 tax is not paid when due, the beneficiary subject to tax shall
17 be personally liable for such tax.

18 (f) EXTENSION OF TIME FOR PAYMENT.—Where
19 the Commissioner finds that the payment on the due date
20 of any part of the amount determined by the executor as the
21 tax would impose undue hardship, the Commissioner may
22 extend the time for payment of any such part not to exceed
23 ten years from the due date. In such case the amount in
24 respect of which the extension is granted shall be paid on
25 or before the date of the expiration of the period of the

1 extension, and the running of the statute of limitations for
2 assessment and collection, as provided in section 218, shall
3 be suspended for the period of any such extension. If an
4 extension is granted, the Commissioner may require the
5 furnishing of a bond in such amount, not exceeding double
6 the amount in respect of which the extension is granted, and
7 with such sureties as the Commissioner deems necessary,
8 conditioned upon the payment of the amount in respect of
9 which the extension is granted in accordance with the
10 terms of the extension.

11 (g) INTEREST ON EXTENDED PAYMENTS.—If the
12 time for the payment is thus extended there shall be col-
13 lected, as a part of such amount, interest thereon at the rate
14 of 3 per centum per annum for the first three years from the
15 expiration of six months after the due date of the tax, and
16 at the rate of 6 per centum per annum thereafter, to the
17 date of the expiration of the period of the extension.

18 (h) VOLUNTARY ADVANCE PAYMENT.—A tax im-
19 posed by this title may be paid, at the election of the
20 executor, prior to the date prescribed for its payment.

21 (i) FRACTIONAL PARTS OF CENT.—In the payment
22 of any tax under this title a fractional part of a cent shall
23 be disregarded unless it amounts to one-half cent or more,
24 in which case it shall be increased to 1 cent.

1 (j) RECEIPTS.—The collector to whom any payment
2 of any tax under this title is made shall, upon request, grant
3 to the person making such payment a receipt therefor.

4 **SEC. 211. LIEN FOR TAX**

5 The tax imposed by this title shall be a lien upon the
6 property with respect to which the tax is imposed for
7 fourteen years from the date of the death of the decedent;
8 except that such part of the property as is used for the
9 payment of charges against the estate and expenses of its
10 administration, allowed by any court having jurisdiction
11 thereof, shall be divested of such lien. In the case of prop-
12 erty the tax with respect to which is held in abeyance under
13 section 206(c) (3) the lien shall exist until the expiration
14 of five years from the filing of the return of the recom-
15 puted tax under section 206(c) (4). If the Commissioner
16 is satisfied that the tax liability has been fully discharged
17 or provided for, he may, under regulations prescribed by
18 him with the approval of the Secretary, issue his certificate,
19 releasing any or all of the property from the lien herein
20 imposed.

21 **SEC. 212. EXAMINATION OF RETURN AND DETERMINA-
22 TION OF TAX**

23 As soon as practicable after the return is filed the Com-
24 missioner shall examine it and shall determine the correct
25 amount of the tax.

1 SEC. 213. DEFINITION OF DEFICIENCY

2 As used in this title in respect of the tax imposed by
3 this title the term "deficiency" means—

4 (1) The amount by which the tax imposed by
5 this title exceeds the amount shown as the tax upon
6 the return; but the amount so shown on the return
7 shall first be increased by the amounts previously
8 assessed (or collected without assessment) as a defi-
9 ciency, and decreased by the amounts previously
10 abated, refunded, or otherwise repaid in respect of such
11 tax; or

12 (2) If no amount is shown as the tax upon the
13 return, or if no return is made, then the amount by
14 which the tax exceeds the amounts previously assessed
15 (or collected without assessment) as a deficiency; but
16 such amounts previously assessed, or collected without
17 assessment, shall first be decreased by the amounts
18 previously abated, refunded, or otherwise repaid in
19 respect of such tax.

20 SEC. 214. ASSESSMENT AND COLLECTION OF DEFICIEN-
21 CIES

22 (a) PETITION TO BOARD OF TAX APPEALS.—If the
23 Commissioner determines that there is a deficiency in respect
24 of the tax imposed by this title, the Commissioner is
25 authorized to send notice of such deficiency by registered

1 mail to the person against whom the deficiency is asserted.
2 Within 90 days after such notice is mailed (not counting
3 Sunday or a legal holiday in the District of Columbia as the
4 ninetieth day), such person may file a petition with the
5 Board of Tax Appeals for a redetermination of the deficiency.
6 No assessment of a deficiency against a person against whom
7 such deficiency is asserted in respect to the tax imposed
8 by this title and no distraint or proceeding in court for its
9 collection shall be made, begun, or prosecuted until such
10 notice has been mailed to him, nor until the expiration of
11 such ninety-day period, nor, if a petition has been filed
12 with the Board, until the decision of the Board has become
13 final. Notwithstanding the provisions of section 3224 of
14 the Revised Statutes the making of such assessment or the
15 beginning of such proceeding or distraint during the time
16 such prohibition is in force may be enjoined by a proceeding
17 in the proper court.

18 For exceptions to the restrictions imposed by this
19 subsection see—

20 (1) Subsection (d) of this section, relating to
21 waivers;

22 (2) Subsection (f) of this section, relating to
23 notifications of mathematical errors appearing upon
24 the face of the return;

(3) Section 215, relating to jeopardy assessments;

(4) Section 217, relating to bankruptcy and receiverships; and

(5) Section 1001 of the Revenue Act of 1926, as amended, relating to assessment or collection of the amount of the deficiency determined by the Board pending court review.

(b) COLLECTION OF DEFICIENCY FOUND BY BOARD.—If the person against whom the deficiency is asserted files a petition with the Board, the entire amount redetermined as the deficiency by the decision of the Board which has become final shall be assessed and shall be paid upon notice and demand from the collector. No part of the amount determined as a deficiency by the Commissioner but disallowed as such by the decision of the Board which has become final shall be assessed or be collected by distress or by proceeding in court with or without assessment.

20 (c) FAILURE TO FILE PETITION.—If the person
21 against whom the deficiency is asserted does not file a
22 petition with the Board within the time prescribed in
23 subsection (a) the deficiency, notice of which has been
24 mailed to him, shall be assessed, and shall be paid upon
25 notice and demand from the collector.

1 (d) WAIVER OF RESTRICTIONS.—The person against
2 whom the deficiency is asserted shall at any time have the
3 right, by a signed notice in writing filed with the Com-
4 missioner, to waive the restrictions provided in subsection
5 (a) on the assessment and collection of the whole or any
6 part of the deficiency.

7 (e) INCREASE OF DEFICIENCY AFTER NOTICE
8 MAILED.—The Board shall have jurisdiction to redetermine
9 the correct amount of the deficiency even if the amount so
10 redetermined is greater than the amount of the deficiency,
11 notice of which has been mailed to the person against whom
12 the deficiency is asserted, and to determine whether any
13 additional amount or addition to the tax should be assessed,
14 if claim therefor is asserted by the Commissioner at or
15 before the hearing or a rehearing.

16 (f) FURTHER DEFICIENCY LETTERS RESTRICTED.—
17 If the Commissioner has mailed to the person against whom
18 the deficiency is asserted notice of a deficiency as provided
19 in subsection (a) of this section, and such person files a
20 petition with the Board within the time prescribed in such
21 subsection, the Commissioner shall have no right to
22 determine any additional deficiency in respect of such person
23 in respect of the same beneficial interest, except in the case
24 of fraud, and except as provided in subsection (e) of this
25 section, relating to assertion of greater deficiencies before the

1 Board, or in section 215(e), relating to the making of
2 jeopardy assessments. If the person against whom the
3 deficiency is asserted is notified that, on account of a mathe-
4 matical error appearing upon the face of the return, an amount
5 of tax in excess of that shown upon the return is due, and that
6 an assessment of the tax has been or will be made on the basis
7 of what would have been the correct amount of the tax but
8 for the mathematical error, such notice shall not be con-
9 sidered (for the purposes of this subsection, or of subsection
10 (a) of this section, prohibiting assessment and collection
11 until notice of deficiency has been mailed, or of section
12 228(e), prohibiting credits or refunds after petition to the
13 Board of Tax Appeals) as a notice of a deficiency, and such
14 person shall have no right to file a petition with the Board
15 based on such notice, nor shall such assessment or collection
16 be prohibited by the provisions of subsection (a) of this
17 section.

18 (g) FINAL DECISIONS OF BOARD.—For the purposes
19 of this title the date on which a decision of the Board becomes
20 final shall be determined according to the provisions of
21 section 1005 of the Revenue Act of 1926.

22 (h) EXTENSION OF TIME FOR PAYMENT OF DEFI-
23 CIENCIES.—Where it is shown to the satisfaction of the Com-
24 missioner that the payment of a deficiency upon the date
25 prescribed for the payment thereof will result in undue

1 hardship, the Commissioner, with the approval of the Seere-
2 tary (except where the deficiency is due to negligence, to
3 intentional disregard of rules and regulations, or to fraud
4 with intent to evade tax), may grant an extension for the
5 payment of such deficiency or any part thereof for a period
6 not in excess of six years. If an extension is granted, the
7 Commissioner may require the furnishing of a bond in such
8 amount, not exceeding double the amount of the deficiency,
9 and with such sureties as the Commissioner deems necessary,
10 conditioned upon the payment of the deficiency in ac-
11 cordance with the terms of the extension. In such case
12 the running of the statute of limitations for assessment and
13 collection shall be suspended for the period of any
14 such extension, and there shall be collected, as a part
15 of the tax, interest on the part of the deficiency the time
16 for payment of which is so extended, at the rate of 6 per
17 centum per annum for the period of the extension, and no
18 other interest shall be collected on such part of the deficiency
19 for such period. If the part of the deficiency the time for
20 payment of which is so extended is not paid in accordance
21 with the terms of the extension, there shall be collected, as
22 a part of the tax, interest on such unpaid amount at the
23 rate of 1 per centum a month for the period from the
24 time fixed by the terms of the extension for its payment until

1 it is paid, and no other interest shall be collected on such
2 unpaid amount for such period.

3 (i) ADDRESS FOR NOTICE OF DEFICIENCY.—In the
4 absence of notice to the Commissioner under section 227 (a)
5 of the existence of a fiduciary relationship, notice of a defi-
6 ciency in respect of a tax imposed by this title, if mailed
7 to the person against whom the deficiency is asserted at his
8 last known address, shall be sufficient for the purposes of
9 this title even if such person is deceased, or is under a legal
10 disability.

11 **SEC. 215. JEOPARDY ASSESSMENTS**

12 (a) AUTHORITY FOR MAKING.—If the Commissioner
13 believes that the assessment or collection of a deficiency will
14 be jeopardized by delay, he shall immediately assess such
15 deficiency (together with all interest, additional amounts, or
16 additions to the tax provided for by law) and notice and
17 demand shall be made by the collector for the payment
18 thereof.

19 (b) DEFICIENCY LETTERS.—If the jeopardy assess-
20 ment is made before any notice in respect of the tax to
21 which the jeopardy assessment relates has been mailed under
22 section 214 (a), then the Commissioner shall mail a notice
23 under such subsection within 60 days after the making of
24 the assessment.

1 (c) AMOUNT ASSESSABLE BEFORE DECISION OF
2 BOARD.—The jeopardy assessment may be made in respect
3 of a deficiency greater or less than that notice of which
4 has been mailed to the person against whom the deficiency
5 is asserted, despite the provisions of section 214(f) pro-
6 hibiting the determination of additional deficiencies, and
7 whether or not he has theretofore filed a petition with the
8 Board of Tax Appeals. The Commissioner shall notify
9 the Board of the amount of such assessment, if the petition
10 is filed with the Board before the making of the assessment
11 or is subsequently filed, and the Board shall have jurisdiction
12 to redetermine the entire amount of the deficiency and of all
13 amounts assessed at the same time in connection therewith.

14 (d) AMOUNT ASSESSABLE AFTER DECISION OF
15 BOARD.—If the jeopardy assessment is made after the
16 decision of the Board is rendered such assessment may be
17 made only in respect of the deficiency determined by the
18 Board in its decision.

19 (e) EXPIRATION OF RIGHT TO ASSESS.—A jeopardy
20 assessment may not be made after the decision of the Board
21 has become final or after the filing of a petition for review
22 of the decision of the Board.

23 (f) BOND TO STAY COLLECTION.—When a jeopardy
24 assessment has been made the person against whom the

1 deficiency is asserted, within ten days after notice and
2 demand from the collector for the payment of the amount
3 of the assessment, may obtain a stay of collection of the
4 whole or any part of the amount of the assessment by
5 filing with the collector a bond in such amount, not
6 exceeding double the amount as to which the stay is de-
7 sired, and with such sureties, as the collector deems neces-
8 sary, conditioned upon the payment of so much of the
9 amount, the collection of which is stayed by the bond, as
10 is not abated by a decision of the Board which has become
11 final, together with interest thereon as provided in section
12 223 or 224 (b) (4).

13 (g) SAME—FURTHER CONDITIONS.—If the bond is
14 given before the person against whom the deficiency
15 is asserted has filed his petition with the Board under
16 section 214(a), the bond shall contain a further con-
17 dition that if a petition is not filed within the period
18 provided in such subsection, then the amount the col-
19 lection of which is stayed by the bond will be paid on
20 notice and demand at any time after the expiration of such
21 period, together with interest thereon at the rate of 6 per
22 centum per annum from the date of the jeopardy notice and
23 demand to the date of notice and demand under this sub-
24 section.

1 (h) WAIVER OF STAY.—Upon the filing of the bond
2 the collection of so much of the amount assessed as
3 is covered by the bond shall be stayed. The person
4 against whom the deficiency is asserted shall have the
5 right to waive such stay at any time in respect of the
6 whole or any part of the amount covered by the bond, and
7 if as a result of such waiver any part of the amount covered
8 by the bond is paid, then the bond shall, at the request of the
9 person against whom the deficiency is asserted, be pro-
10 portionately reduced. If the Board determines that the
11 amount assessed is greater than the amount which should
12 have been assessed, then when the decision of the Board
13 is rendered the bond shall, at the request of the person
14 against whom the deficiency is asserted, be proportionately
15 reduced.

16 (i) COLLECTION OF UNPAID AMOUNTS.—When the
17 petition has been filed with the Board and when the amount
18 which should have been assessed has been determined by a
19 decision of the Board which has become final, then any
20 unpaid portion, the collection of which has been stayed by
21 the bond, shall be collected as part of the tax upon notice
22 and demand from the collector, and any remaining portion
23 of the assessment shall be abated. If the amount already
24 collected exceeds the amount determined as the amount

1 which should have been assessed, such excess shall be cred-
2 ited or refunded as provided in section 228, without the
3 filing of claim therefor. If the amount determined as the
4 amount which should have been assessed is greater than the
5 amount actually assessed, then the difference shall be assessed
6 and shall be collected as part of the tax upon notice and
7 demand from the collector.

8 **SEC. 216. CLAIMS IN ABATEMENT**

9 No claim in abatement shall be filed in respect of any
10 assessment in respect of any tax imposed by this title.

11 **SEC. 217. BANKRUPTCY AND RECEIVERSHIPS**

12 (a) **IMMEDIATE ASSESSMENT.**—Upon the adjudica-
13 tion of bankruptcy of any person against whom the deficiency
14 is asserted in any bankruptcy proceeding or the appointment
15 of a receiver for any person against whom the deficiency is
16 asserted in any receivership proceeding before any court of
17 the United States or of any State or Territory or of the Dis-
18 trict of Columbia, any deficiency (together with all interest,
19 additional amounts, or additions to the tax provided for by
20 law) determined by the Commissioner in respect of a tax
21 imposed by this title upon such person shall, despite the
22 restrictions imposed by section 214(a), upon assessments
23 be immediately assessed if such deficiency has not theretofore
24 been assessed in accordance with law. Claims for the
25 deficiency and such interest, additional amounts and addi-

1 tions to the tax may be presented, for adjudication in
2 accordance with law, to the court before which the
3 bankruptcy or receivership proceeding is pending, despite
4 the pendency of proceedings for the redetermination of the
5 deficiency in pursuance of a petition to the Board; but no
6 petition for any such redetermination shall be filed with the
7 Board after the adjudication of bankruptcy or the appoint-
8 ment of the receiver.

9 (b) UNPAID CLAIMS.—Any portion of the claim
10 allowed in such bankruptcy or receivership proceeding which
11 is unpaid shall be paid by the person against whom the
12 deficiency is asserted upon notice and demand from the col-
13 lector after the termination of such proceeding, and may
14 be collected by distress or proceeding in court within
15 six years after termination of such proceeding. Exten-
16 sions of time for such payment may be had in the same
17 manner and subject to the same provisions and limitations
18 as are provided in sections 210, 214(h), and 224(b)
19 (3) in the case of a deficiency in a tax imposed by this title.

20 **SEC. 218. PERIOD OF LIMITATION UPON ASSESSMENT
21 AND COLLECTION**

22 (a) GENERAL RULE.—Except as provided in subsec-
23 tions (b) and (c), the amount of taxes imposed by this
24 title shall be assessed within ten years after the return
25 was filed, and no proceeding in court without assessment

1 for the collection of such taxes shall be begun after the
2 expiration of such period.

3 (b) SPECIAL RULE FOR CONTINGENT INTERESTS.—
4 Except as provided in subsection (c), in the case of the
5 tax recomputed under section 206(c)(4), the tax shall be
6 assessed within five years after the return of the recomputed
7 tax under such section was filed, and no proceeding in court
8 without assessment for the collection of such tax shall be
9 begun after the expiration of such period.

10 (c) EXCEPTIONS.—

11 (1) FALSE RETURN OR NO RETURN.—In the
12 case of a false or fraudulent return with intent to evade
13 tax or of a failure to file a return the tax may be as-
14 sessed, or a proceeding in court for the collection of
15 such tax may be begun without assessment, at any
16 time.

17 (2) COLLECTION AFTER ASSESSMENT.—Where
18 the assessment of any tax imposed by this title has
19 been made within the statutory period of limitation
20 properly applicable thereto, such tax may be collected
21 by distress or by a proceeding in court, but only if
22 begun (1) within six years after the assessment of the
23 tax, or (2) prior to the expiration of any period for
24 collection agreed upon in writing by the Commissioner
25 and the person against whom the assessment is made.

1 SEC. 219. SUSPENSION OF RUNNING OF STATUTE

2 The running of the statute of limitations provided in
3 section 218 on the making of assessments and the beginning
4 of restraint or a proceeding in court for collection, in respect
5 of any deficiency, shall (after the mailing of a notice under
6 section 214(a)) be suspended for the period during which
7 the Commissioner is prohibited from making the assess-
8 ment or beginning restraint or a proceeding in court (and
9 in any event, if a proceeding in respect of the deficiency is
10 placed on the docket of the Board, until the decision of the
11 Board becomes final), and for 60 days thereafter.

12 SEC. 220. ADDITIONS TO THE TAX IN CASE OF FAILURE**13 TO FILE RETURN**

14 In case of any failure to make and file a return required
15 by this title, within the time prescribed by law or prescribed
16 by the Commissioner in pursuance of law, 25 per centum of
17 the tax shall be added to the tax, except that when a return
18 is filed after such time and it is shown that the failure to file
19 it was due to reasonable cause and not due to willful neglect
20 no such addition shall be made to the tax. The amount so
21 added to any tax shall be collected at the same time and in
22 the same manner and as a part of the tax unless the tax
23 has been paid before the discovery of the neglect, in which
24 case the amount so added shall be collected in the same man-
25 ner as the tax. The amount added to the tax under this

1 section shall be in lieu of the 25 per centum addition to the
2 tax provided in section 3176 of the Revised Statutes, as
3 amended.

4 **SEC. 221. ADDITIONS TO THE TAX IN CASE OF DEFICIENCY**

5 (a) **NEGLIGENCE.**—If any part of any deficiency is
6 due to negligence, or intentional disregard of rules and
7 regulations but without intent to defraud, 5 per centum of
8 the total amount of the deficiency (in addition to such defi-
9 ciency) shall be assessed, collected, and paid in the same
10 manner as if it were a deficiency, except that the provisions
11 of section 222, relating to interest on deficiencies, shall not
12 be applicable.

13 (b) **FRAUD.**—If any part of any deficiency is due to
14 fraud with intent to evade tax, then 50 per centum of the
15 total amount of the deficiency (in addition to such defi-
16 ciency) shall be so assessed, collected, and paid, in lieu of
17 the 50 per centum addition to the tax provided in section
18 3176 of the Revised Statutes, as amended.

19 **SEC. 222. INTEREST ON DEFICIENCIES**

20 Interest upon the amount determined as a deficiency
21 shall be assessed at the same time as the deficiency, shall
22 be paid upon notice and demand from the collector, and
23 shall be collected as a part of the tax, at the rate of 6 per
24 centum per annum from the due date of the tax to the
25 date the deficiency is assessed, or, in the case of a waiver

1 under section 214(d), to the thirtieth day after the filing
2 of such waiver or to the date the deficiency is assessed,
3 whichever is the earlier.

4 **SEC. 223. INTEREST ON JEOPARDY ASSESSMENTS**

5 In the case of the amount collected under section
6 215(f) there shall be collected at the same time as such
7 amount, and as a part of the tax, interest at the rate of
8 6 per centum per annum upon such amount from the date
9 of the jeopardy notice and demand to the date of notice
10 and demand under section 215(i), or, in the case of the
11 amount collected in excess of the amount of the jeopardy
12 assessment, interest as provided in section 222.

13 **SEC. 224. ADDITIONS TO THE TAX IN CASE OF NONPAY-
14 MENT**

15 (a) **TAX SHOWN ON RETURN.—**

16 (1) **PAYMENT NOT EXTENDED.—**Where the
17 amount determined by the person liable for the tax as
18 the tax imposed by this title, or any part of such
19 amount, is not paid on the due date of the tax, there
20 shall be collected as a part of the tax, interest upon such
21 unpaid amount at the rate of 1 per centum a month from
22 the due date until it is paid.

23 (2) **PAYMENT EXTENDED.—**Where an exten-
24 sion of time for payment of the amount so determined
25 as the tax has been granted, and the amount

1 the time for payment of which has been extended,
2 and the interest thereon determined under section
3 210(g), is not paid in full prior to the expiration
4 of the period of the extension, then, in lieu of the
5 interest provided for in paragraph (1) of this sub-
6 section, interest at the rate of 1 per centum a month
7 shall be collected on such unpaid amount from the
8 date of the expiration of the period of the extension
9 until it is paid.

10 (b) DEFICIENCY.—

11 (1) PAYMENT NOT EXTENDED.—Where a defi-
12 ciency, or any interest assessed in connection therewith
13 under section 222, or any addition to the tax provided
14 for in section 3176 of the Revised Statutes, is not paid
15 in full within ten days from the date of notice and
16 demand from the collector, there shall be collected as
17 part of the tax, interest upon the unpaid amount at
18 the rate of 1 per centum a month from the date of such
19 notice and demand until it is paid.

20 (2) FILING OF JEOPARDY BOND.—If a bond is
21 filed, as provided in section 215, the provisions of
22 paragraph (1) of this subsection shall not apply to the
23 amount covered by the bond.

24 (3) PAYMENT EXTENDED.—If the part of the
25 deficiency the time for payment of which is extended

1 as provided in section 214 (h) is not paid in accordance
2 with the terms of the extension, there shall be col-
3 lected, as a part of the tax, interest on such unpaid
4 amount at the rate of 1 per centum a month for the
5 period from the time fixed by the terms of the exten-
6 sion for its payment until it is paid, and no other
7 interest shall be collected on such unpaid amount for
8 such period.

9 (4) JEOPARDY ASSESSMENT—PAYMENT STAYED
10 BY BOND.—If the amount included in the notice and
11 demand from the collector under section 215 (i) is
12 not paid in full within ten days after such notice and
13 demand, then there shall be collected, as part of the
14 tax, interest upon the unpaid amount at the rate of
15 1 per centum a month from the date of such notice
16 and demand until it is paid.

17 (5) INTEREST IN CASE OF BANKRUPTCY AND
18 RECEIVERSHIPS.—If the unpaid portion of the claim
19 allowed in a bankruptcy or receivership proceeding, as
20 provided in section 217, is not paid in full within 10
21 days from the date of notice and demand from the
22 collector, then there shall be collected as a part of
23 such amount interest upon the unpaid portion thereof
24 at the rate of 1 per centum a month from the date
25 of such notice and demand until payment.

1 SEC. 225. PENALTIES

2 (a) Any person required under this title to pay any
3 tax, or required by law or regulations made under authority
4 thereof to make a return, keep any records, or supply any
5 information, for the purposes of the computation, assessment,
6 or collection of any tax imposed by this title, who willfully
7 fails to pay such tax, make such return, keep such records,
8 or supply such information, at the time or times required by
9 law or regulations, shall, in addition to other penalties pro-
10 vided by law, be guilty of a misdemeanor and, upon con-
11 viction thereof, be fined not more than \$10,000, or impris-
12 oned for not more than one year, or both, together with
13 the costs of prosecution.

14 (b) Any person who willfully attempts in any manner
15 to evade or defeat any tax imposed by this title or the pay-
16 ment thereof, shall, in addition to other penalties provided
17 by law, be guilty of a felony and, on conviction thereof, be
18 fined not more than \$10,000, or imprisoned for not more than
19 five years, or both, together with the costs of prosecution.

20 (c) Whoever fails to comply with any duty imposed
21 upon him by section 208, or, having in his possession or
22 control any record, file, or paper, containing or supposed
23 to contain any information concerning the estate of the
24 decedent, or, having in his possession or control any prop-
25 erty transferred by reason of the death of the decedent,

1 fails to exhibit the same upon request to the Commissioner
2 or any collector or law officer of the United States or his
3 duly authorized deputy or agent, who desires to examine
4 the same in the performance of his duties under this title,
5 shall be liable to a penalty of not exceeding \$500, to be
6 recovered, with costs of suit, in a civil action in the name
7 of the United States.

8 **SEC. 226. TRANSFERRED ASSETS**

9 (a) **METHOD OF COLLECTION.**—The amounts of the
10 following liabilities shall, except as hereinafter in this sec-
11 tion provided, be assessed, collected, and paid in the same
12 manner and subject to the same provisions and limitations
13 as in the case of a deficiency in the tax imposed by this title
14 (including the provisions in case of delinquency in pay-
15 ment after notice and demand, the provisions authorizing
16 distraint and proceedings in court for collection, and the
17 provisions prohibiting claims and suits for refunds) :

18 (1) **TRANSFEREES.**—The liability, at law or in
19 equity, of a transferee of property, in respect of the
20 tax (including interest, additional amounts, and addi-
21 tions to the tax provided by law) imposed by this title.

22 (2) **FIDUCIARIES.**—The liability of a fiduciary
23 under section 3467 of the Revised Statutes, as amended,
24 in respect of the payment of any tax imposed by this
25 title,

1 Any such liability may be either as to the amount of tax
2 shown on the return or as to any deficiency in tax.

3 (b) PERIOD OF LIMITATION.—The period of limita-
4 tion for assessment of any such liability of a transferee or
5 fiduciary shall be as follows:

6 (1) Within one year after the expiration of the
7 period of limitation for assessment against the person
8 liable for the tax.

9 (2) If a court proceeding against the person liable
10 for the tax for the collection of the tax has been begun
11 within the period provided in paragraph (1), then
12 within one year after return of execution in such
13 proceeding.

14 (c) PERIOD FOR ASSESSMENT AGAINST PERSON
15 LIABLE FOR TAX.—For the purposes of this section, if
16 the person liable for the tax is deceased, the period of
17 limitation for assessment against him shall be the period
18 that would be in effect had the death not occurred.

19 (d) SUSPENSION OF RUNNING OF STATUTE OF LIM-
20 ITATIONS.—The running of the statute of limitations upon
21 the assessment of the liability of a transferee or fiduciary
22 shall, after the mailing of the notice under section 214(a)
23 to the transferee or fiduciary, be suspended for the period
24 during which the Commissioner is prohibited from making
25 the assessment in respect of the liability of the transferee or

1 fiduciary (and in any event, if a proceeding in respect of
2 the liability is placed on the docket of the Board, until the
3 decision of the Board becomes final), and for sixty days
4 thereafter.

5 (e) PROHIBITION OF SUITS TO RESTRAIN ENFORCE-
6 MENT OF LIABILITY OF TRANSFeree OR FIDUCIARY.—No
7 suit shall be maintained in any court for the purpose of
8 restraining the assessment or collection of (1) the amount
9 of the liability, at law or in equity, of a transferee of prop-
10 erty in respect of any tax under this title, or (2) the amount
11 of the liability of a fiduciary under section 3467 of the
12 Revised Statutes, as amended, in respect of any such tax.

13 (f) DEFINITION OF “TRANSFeree”.—As used in
14 this section, the term “transferee” includes beneficiary,
15 donee, heir, legatee, devisee, and distributee.

16 (g) ADDRESS FOR NOTICE OF LIABILITY.—In the
17 absence of notice to the Commissioner under section 227 (b)
18 of the existence of a fiduciary relationship, notice of lia-
19 bility enforceable under this section in respect of a tax
20 imposed by this title, if mailed to the person subject to the
21 liability at his last known address, shall be sufficient for the
22 purposes of this title even if such person is deceased, or is
23 under a legal disability, or, in the case of a corporation,
24 has terminated its existence.

1 SEC. 227. NOTICE OF FIDUCIARY RELATIONSHIP

2 (a) **FIDUCIARY OF PERSON LIABLE FOR TAX.**—Upon
3 notice to the Commissioner that any person is acting in
4 a fiduciary capacity such fiduciary shall assume the powers,
5 rights, duties, and privileges of the person liable for the
6 tax in respect of a tax imposed by this title (except as
7 otherwise specifically provided and except that the tax
8 shall be collected from the estate of the person liable for
9 the tax), until notice is given that the fiduciary capacity
10 has terminated.

11 (b) **FIDUCIARY OF TRANSFEREE.**—Upon notice to the
12 Commissioner that any person is acting in a fiduciary ca-
13 pacity for a person subject to the liability specified in sec-
14 tion 226, the fiduciary shall assume, on behalf of such per-
15 son, the powers, rights, duties, and privileges of such person
16 under such section (except that the liability shall be col-
17 lected from the estate of such person), until notice is given
18 that the fiduciary capacity has terminated.

19 (c) **MANNER OF NOTICE.**—Notice under subsection
20 (a) or (b) shall be given in accordance with regulations
21 prescribed by the Commissioner with the approval of the
22 Secretary.

23 SEC. 228. REFUNDS AND CREDITS

24 (a) **AUTHORIZATION.**—Where there has been an
25 overpayment of any tax imposed by this title, the amount of

1 such overpayment shall be credited against any tax imposed
2 by this title then due from the taxpayer, and any balance
3 shall be refunded immediately to the taxpayer.

4 (b) LIMITATION ON ALLOWANCE.—

5 (1) PERIOD OF LIMITATION.—No such credit or
6 refund shall be allowed or made after three years from
7 the time the tax was paid, unless before the expiration
8 of such period a claim therefor is filed by the taxpayer.

9 (2) LIMIT ON AMOUNT OF CREDIT OR REFUND.—
10 The amount of the credit or refund shall not exceed
11 the portion of the tax paid during the three years imme-
12 diately preceding the filing of the claim, or if no claim
13 was filed, then during the three years immediately pre-
14 ceding the allowance of the credit or refund.

15 (c) EFFECT OF PETITION TO BOARD.—If the Com-
16 missioner has mailed to the taxpayer a notice of deficiency
17 under section 214(a) and if the taxpayer files a petition
18 with the Board of Tax Appeals within the time prescribed
19 in such subsection, no credit or refund in respect of the tax
20 shall be allowed or made and no suit by the taxpayer for
21 the recovery of any part of such tax shall be instituted in
22 any court except—

23 (1) As to overpayments determined by a decision
24 of the Board which has become final; and

1 (2) As to any amount collected in excess of an
2 amount computed in accordance with the decision of
3 the Board which has become final; and

4 (3) As to any amount collected after the period
5 of limitation upon the beginning of distress or a pro-
6 ceeding in court for collection has expired; but in any
7 such claim for credit or refund or in any such suit
8 for refund the decision of the Board which has become
9 final, as to whether such period has expired before
10 the notice of deficiency was mailed, shall be conclusive.

11 (d) OVERPAYMENT FOUND BY BOARD.—If the Board
12 finds that there is no deficiency and further finds that the
13 taxpayer has made an overpayment of tax, the Board shall
14 have jurisdiction to determine the amount of such overpay-
15 ment, and such amount shall, when the decision of the Board
16 has become final, be credited or refunded to the taxpayer.
17 No such credit or refund shall be made of any portion of the
18 tax unless the Board determines as part of its decision that
19 it was paid within three years before the filing of the claim
20 or the filing of the petition, whichever is earlier.

21 **SEC. 229. LAWS MADE APPLICABLE**

22 All administrative, special, or stamp provisions of
23 law, including the law relating to the assessment of taxes,
24 so far as applicable, are hereby extended to and made a part
25 of this title.

1 SEC. 230. RULES AND REGULATIONS

2 The Commissioner, with the approval of the Secretary,
3 shall prescribe and publish all needful rules and regulations
4 for the enforcement of this title.

5 TITLE III—GIFT TAX ON DONEES**6 SEC. 301. IMPOSITION OF TAX**

7 (a) For the calendar year 1935 and each calendar
8 year thereafter there is hereby imposed (in addition to the
9 gift tax on donors imposed by Title III of the Revenue Act
10 of 1932, as amended) a tax, computed as provided in
11 section 302, upon the right to receive or acquire any prop-
12 erty, wherever situated, transferred during such calendar
13 year by any individual, resident or nonresident, by gift to
14 any donee.

15 (b) The tax shall apply whether the transfer is in
16 trust or otherwise and whether the gift is direct or indirect;
17 but, in the case of a nonresident donor not a citizen
18 of the United States, shall apply to a transfer only if the
19 property is situated within the United States. The tax
20 shall not apply to a transfer made on or before the date of
21 the enactment of this Act.

22 SEC. 302. COMPUTATION OF TAX

23 (a) GENERAL RULE.—The tax of each donee with
24 respect to each donor for each calendar year shall be an
25 amount equal to the excess of—

1 (1) a tax, computed in accordance with the Rate
2 Schedule hereinafter set forth, on the aggregate sum
3 of the net gifts from such donor for such calendar year
4 and for each of the preceding calendar years, over

5 (2) a tax, computed in accordance with the Rate
6 Schedule, on the aggregate sum of the net gifts from
7 such donor for each of the preceding calendar years.

8 GIFT TAX RATE SCHEDULE

9 Upon net gifts not in excess of \$10,000, 3 per centum.
10 \$300 upon net gifts of \$10,000; and upon net gifts
11 in excess of \$10,000 and not in excess of \$20,000, 6 per
12 centum in addition of such excess.

13 \$900 upon net gifts of \$20,000; and upon net gifts in
14 excess of \$20,000 and not in excess of \$30,000, 9 per
15 centum in addition of such excess.

16 \$1,800 upon net gifts of \$30,000; and upon net gifts
17 in excess of \$30,000 and not in excess of \$50,000, 12 per
18 centum in addition of such excess.

19 \$4,200 upon net gifts of \$50,000; and upon net gifts
20 in excess of \$50,000 and not in excess of \$100,000, 15 per
21 centum in addition of such excess.

22 \$11,700 upon net gifts of \$100,000; and upon net gifts
23 in excess of \$100,000 and not in excess of \$150,000, 18
24 per centum in addition of such excess.

- 1 \$20,700 upon net gifts of \$150,000; and upon net gifts
2 in excess of \$150,000 and not in excess of \$250,000, 21 per
3 centum in addition of such excess.
- 4 \$41,700 upon net gifts of \$250,000; and upon net
5 gifts in excess of \$250,000 and not in excess of \$400,000,
6 24 per centum in addition of such excess.
- 7 \$77,700 upon net gifts of \$400,000; and upon net
8 gifts in excess of \$400,000 and not in excess of \$700,000,
9 27 per centum in addition of such excess.
- 10 \$158,700 upon net gifts of \$700,000; and upon net
11 gifts in excess of \$700,000 and not in excess of \$1,000,000,
12 30 per centum in addition of such excess.
- 13 \$248,700 upon net gifts of \$1,000,000; and upon net
14 gifts in excess of \$1,000,000 and not in excess of \$1,500,000,
15 33 per centum in addition of such excess.
- 16 \$413,700 upon net gifts of \$1,500,000; and upon net
17 gifts in excess of \$1,500,000 and not in excess of \$2,000,000,
18 36 per centum in addition of such excess.
- 19 \$593,700 upon net gifts of \$2,000,000; and upon net
20 gifts in excess of \$2,000,000 and not in excess of \$3,000,000,
21 39 per centum in addition of such excess.
- 22 \$983,700 upon net gifts of \$3,000,000; and upon net
23 gifts in excess of \$3,000,000 and not in excess of \$4,000,000,
24 42 per centum in addition of such excess.

1 \$1,403,700 upon net gifts of \$4,000,000; and upon net
2 gifts in excess of \$4,000,000 and not in excess of \$5,000,000,
3 45 per centum in addition of such excess.

4 \$1,853,700 upon net gifts of \$5,000,000; and upon net
5 gifts in excess of \$5,000,000 and not in excess of \$6,000,000,
6 48 per centum in addition of such excess.

7 \$2,333,700 upon net gifts of \$6,000,000; and upon net
8 gifts in excess of \$6,000,000 and not in excess of \$8,000,000,
9 51 per centum in addition of such excess.

10 \$3,353,700 upon net gifts of \$8,000,000; and upon net
11 gifts in excess of \$8,000,000 and not in excess of \$10,000,-
12 000, 54 per centum in addition of such excess.

13 \$4,433,700 upon net gifts of \$10,000,000; and upon
14 net gifts in excess of \$10,000,000, 57 per centum in addition
15 of such excess.

16 (b) CORPORATIONS FOR AVOIDING TAX.—If any
17 corporation is formed or availed of for the purpose of
18 avoiding the tax imposed by this title, or any part thereof,
19 the rate of tax on such corporation shall be 70 per centum
20 of the net gifts for the calendar year in lieu of the rate
21 provided in subsection (a).

22 (c) FAMILY CORPORATIONS.—If an interest or
23 control, direct or indirect, of 50 per centum or more in any
24 corporation exists in any one or more of the persons bearing
25 the relationship to the donor specified in section 305 as

1 entitling them to a specific exemption of \$50,000, the rate of
2 tax on such corporation shall be 70 per centum of the net
3 gifts for the calendar year in lieu of the rate provided in
4 subsection (a), unless such corporation establishes to the
5 satisfaction of the Commissioner that it has not been formed
6 or availed of for the purpose of avoiding the tax imposed by
7 this title, or any part thereof.

8 **SEC. 303. TRANSFER FOR LESS THAN ADEQUATE AND**
9 **FULL CONSIDERATION**

10 (a) Where property is transferred for less than an
11 adequate and full consideration in money or money's worth,
12 then the amount by which the value of the property
13 exceeded the value of the consideration shall, for the purpose
14 of the tax imposed by this title, be deemed a gift, and shall
15 be included in computing the amount of gifts made during
16 the calendar year.

17 (b) For the purposes of this title, a relinquishment
18 or promised relinquishment of dower, courtesy, or of a
19 statutory estate in lieu of dower or courtesy, or of other
20 marital rights in the donor's property or estate shall not
21 be considered to any extent a consideration in money or
22 money's worth.

23 **SEC. 304. NET GIFTS**

24 (a) **GENERAL DEFINITION.**—The term "net gifts"
25 means the total amount of gifts made by each donor to each

1 donee during the calendar year, less the exemption provided
2 in section 305.

3 (b) GIFTS LESS THAN \$5,000.—In the case of gifts
4 (other than of future interests in property) made to any
5 donee by any donor during the calendar year, the first \$5,000
6 of such gifts to such donee from such donor shall not, for the
7 purposes of subsection (a), be included in the total amount
8 of gifts made during such year.

9 **SEC. 305. EXEMPTION**

10 In computing net gifts from any donor to any donee
11 there shall be allowed a total specific exemption of \$10,000,
12 except that the total specific exemption shall be \$50,000 in
13 the case of a spouse, child (including a child legally adopted
14 before it attained the age of twenty-one), father, mother,
15 brother or sister (including a brother or sister of the half
16 blood), grandchild, grandfather, or grandmother. The
17 specific exemption allowed each donee shall be applied in
18 computing gifts to him for the first calendar year with respect
19 to which net gifts to him are computed and so on for suc-
20 cessive calendar years until the exemption is exhausted.

21 **SEC. 306. CHARITABLE, AND SO FORTH, GIFTS**

22 There shall be exempt from the tax imposed by this
23 title gifts to or for the use of—

24 (1) the United States, any State, Territory, or
25 any political subdivision thereof, or the District of
26 Columbia, for exclusively public purposes;

1 (2) a domestic corporation organized and operated
2 exclusively for religious, charitable, scientific, literary,
3 or educational purposes, including the encouragement of
4 art and the prevention of cruelty to children or animals;
5 no part of the net earnings of which inures to the bene-
6 fit of any private shareholder or individual;

7 (3) a trust, or community chest, fund, or founda-
8 tion, organized and operated exclusively for religious,
9 charitable, scientific, literary, or educational purposes,
10 including the encouragement of art and the prevention
11 of cruelty to children or animals; but only if such gifts
12 are to be used within the United States exclusively for
13 such purposes;

14 (4) a fraternal society, order, or association,
15 operating under the lodge system, but only if such
16 gifts are to be used within the United States exelusively
17 for religious, charitable, scientific, literary, or educa-
18 tional purposes, including the encouragement of art
19 and the prevention of cruelty to children or animals;

20 (5) posts or organizations of war veterans, or
21 auxiliary units or societies of any such posts or organi-
22 zations, if such posts, organizations, units, or societies
23 are organized in the United States or any of its posses-
24 sions, and if no part of their net earnings inures to the
25 benefit of any private shareholder or individual;

1 (6) the special fund for vocational rehabilitation
2 authorized by section 12 of the World War Veterans'
3 Act, 1924.

4 **SEC. 307. GIFTS MADE IN PROPERTY AND FUTURE
5 INTERESTS**

6 (a) **GIFT IN PROPERTY.**—If the gift is made in
7 property, the value thereof at the date of the gift shall be
8 considered the amount of the gift.

9 (b) **FUTURE INTERESTS, AND SO FORTH.**—

10 (1) **VALUATION.**—The value of any beneficial
11 interest dependent upon any life or lives shall, so far
12 as possible, be determined in accordance with accepted
13 actuarial principles, and based upon such tables of
14 mortality as the Commissioner shall from time to time
15 adopt, and upon an interest rate of 4 per centum per
16 annum compounded annually, or, if the beneficial inter-
17 est is governed by a contract, then upon such interest
18 rate (determined in such manner as the Commissioner
19 shall by regulations prescribe) as is properly applicable
20 in valuing such beneficial interest. The value of the
21 beneficial interest remaining after such temporary bene-
22 ficial interest shall be determined by deducting the
23 computed value of such temporary interest from the
24 value of the entire property in which such remaining
25 interest exists.

1 **(2) ESTATES WHICH MAY BE DIVESTED.—**

2 Where an estate or interest may be divested by the act
3 or omission of the donee (whether alone or in conjunc-
4 tion with any person), the tax shall be computed as
5 if there were no possibility of divesting.

6 **SEC. 308. RETURNS**

7 (a) **REQUIREMENT.**—Any individual who within the
8 calendar year 1935 or any calendar year thereafter makes
9 any transfers by gift (except those which under section 304
10 are not to be included in the total amount of gifts for such
11 year) shall make a return under oath in duplicate. The
12 return shall set forth (1) each gift made during the calendar
13 year which under section 304 is to be included in com-
14 puting net gifts; (2) the exemption claimed and allowable
15 under section 305; (3) the net gifts for each of the preceding
16 calendar years; and (4) such further information as may be
17 required by regulations made pursuant to law.

18 (b) **TIME AND PLACE FOR FILING.**—The return shall
19 be filed on or before the 15th day of March following the
20 close of the calendar year with the collector for the district in
21 which is located the legal residence of the donor, or if he
22 has no legal residence in the United States, then (unless the
23 Commissioner designates another district) with the collector
24 at Baltimore, Maryland.

1 SEC. 300. RECORDS AND SPECIAL RETURNS

2 (a) IN GENERAL.—Every person liable to any tax
3 imposed by this title or for the collection thereof, or having
4 the title, possession, custody, or control of any property
5 transferred by gift, shall keep such records, render under
6 oath such statements, make such returns, and comply with
7 such rules and regulations, as the Commissioner, with the
8 approval of the Secretary, may from time to time prescribe.

9 (b) TO DETERMINE LIABILITY TO TAX.—When-
10 ever in the judgment of the Commissioner necessary he may
11 require any person, by notice served upon him, to make a
12 return, render under oath such statements, and keep such
13 records, as the Commissioner deems sufficient to show
14 whether or not such person is liable to tax under this title.

15 SEC. 310. PAYMENT OF TAX

16 (a) WITHHOLDING AND PAYMENT BY DONOR.—At
17 the time of making each gift subject to tax under this title,
18 the donor shall withhold from such gift, or collect from
19 the donee, the amount of tax on such gift, computed, in
20 accordance with such regulations as the Commissioner, with
21 the approval of the Secretary, shall prescribe, as if such
22 gift were the last gift made by the donor to the donee during
23 the calendar year. The donor shall be liable for the tax
24 required to be so withheld or collected and such tax shall
25 be paid by the donor to the collector on or before the

1 fifteenth day of March following the close of the calendar
2 year.

3 (b) LIABILITY OF DONEE.—If the tax is not paid
4 when due, the donee shall be personally liable for such
5 tax.

6 (c) TAX COLLECTIBLE OUT OF PROPERTY.—All
7 taxes under this title may be collected out of the real or
8 personal property in which the interests of the donee exist.

9 (d) EXTENSION OF TIME FOR PAYMENT.—At the
10 request of the donor, the Commissioner may extend the
11 time for payment of the amount determined as the tax by
12 the donor, for a period not to exceed six months from the
13 date prescribed for the payment of the tax. In such case
14 the amount in respect of which the extension is granted
15 shall be paid on or before the date of the expiration of the
16 period of the extension.

17 (e) VOLUNTARY ADVANCE PAYMENT.—A tax im-
18 posed by this title, may be paid, at the election of the donor,
19 prior to the date prescribed for its payment.

20 (f) FRACTIONAL PARTS OF CENT.—In the payment
21 of any tax under this title a fractional part of a cent shall be
22 disregarded unless it amounts to one-half cent or more, in
23 which case it shall be increased to 1 cent.

24 (g) RECEIPTS.—The collector to whom any payment
25 of any gift tax is made shall, upon request, grant to the per-
26 son making such payment a receipt therefor.

1 SEC. 311. LIEN FOR TAX

2 The tax imposed by this title with respect to any donee
3 for any calendar year shall be a lien upon all property with
4 respect to which such tax is imposed, for ten years from
5 the time the gifts are made. If the Commissioner is satis-
6 fied that the tax liability has been fully discharged or pro-
7 vided for, he may, under regulations prescribed by him
8 with the approval of the Secretary, issue his certificate,
9 releasing any or all of the property from the lien herein
10 imposed.

**11 SEC. 312. EXAMINATION OF RETURN AND DETERMINA-
12 TION OF TAX**

13 As soon as practicable after the return is filed the
14 Commissioner shall examine it and shall determine the
15 correct amount of the tax.

16 SEC. 313. DEFINITION OF DEFICIENCY

17 As used in this title in respect of the tax imposed by
18 this title the term "deficiency" means—

19 (1) The amount by which the tax imposed by this
20 title exceeds the amount shown as the tax upon the
21 return; but the amount so shown shall first be increased
22 by the amounts previously assessed (or collected with-
23 out assessment) as a deficiency, and decreased by
24 the amounts previously abated, refunded, or otherwise
25 repaid in respect of such tax; or

1 (2) If no amount is shown as the tax upon the
2 return, or if no return is made, then the amount by
3 which the tax exceeds the amounts previously assessed
4 (or collected without assessment) as a deficiency; but
5 such amounts previously assessed, or collected without
6 assessment, shall first be decreased by the amounts
7 previously abated, refunded, or otherwise repaid in
8 respect of such tax.

9 **SEC. 314. ASSESSMENT AND COLLECTION OF DEFICIEN-**

10 **CIES**

11 (a) **PETITION TO BOARD OF TAX APPEALS.**—If the
12 Commissioner determines that there is a deficiency in respect
13 of the tax imposed by this title, the Commissioner is author-
14 ized to send notice of such deficiency by registered mail to
15 the person against whom the deficiency is asserted. Within
16 ninety days after such notice is mailed (not counting Sunday
17 or a legal holiday in the District of Columbia as the ninetieth
18 day), such person may file a petition with the Board of
19 Tax Appeals for a redetermination of the deficiency. No
20 assessment of a deficiency in respect of the tax imposed
21 by this title and no distraint or proceeding in court for
22 its collection shall be made, begun, or prosecuted until
23 such notice has been mailed to the person against whom
24 the deficiency is asserted, nor until the expiration of such
25 90-day period, nor, if a petition has been filed with the

1 Board, until the decision of the Board has become final.
2 Notwithstanding the provisions of section 3224 of the
3 Revised Statutes the making of such assessment or the
4 beginning of such proceeding or distressment during the time such
5 prohibition is in force may be enjoined by a proceeding in
6 the proper court.

7 For exceptions to the restrictions imposed by this
8 subsection see—

9 (1) Subsection (d) of this section, relating to
10 waivers;

11 (2) Subsection (f) of this section, relating to
12 notifications of mathematical errors appearing upon the
13 face of the return;

14 (3) Section 315, relating to jeopardy assess-
15 ments;

16 (4) Section 317, relating to bankruptcy and
17 receiverships; and

18 (5) Section 1001 of the Revenue Act of 1926,
19 as amended, relating to assessment or collection of the
20 amount of the deficiency determined by the Board
21 pending court review.

22 (b) COLLECTION OF DEFICIENCY FOUND BY
23 BOARD.—If the person against whom the deficiency is as-
24 serted files a petition with the Board, the entire amount
25 redetermined as the deficiency by the decision of the Board

1 which has become final shall be assessed and shall be paid
2 upon notice and demand from the collector. No part of
3 the amount determined as a deficiency by the Commissioner
4 but disallowed as such by the decision of the Board which
5 has become final shall be assessed or be collected by distraint
6 or by proceeding in court with or without assessment.

7 (c) FAILURE TO FILE PETITION.—If the person
8 against whom the deficiency is asserted does not file a
9 petition with the Board within the time prescribed in sub-
10 section (a) the deficiency, notice of which has been mailed
11 to him, shall be assessed, and shall be paid upon notice and
12 demand from the collector.

13 (d) WAIVER OF RESTRICTIONS.—The person against
14 whom the deficiency is asserted shall at any time
15 have the right, by a signed notice in writing filed
16 with the Commissioner, to waive the restrictions provided in
17 subsection (a) on the assessment and collection of the
18 whole or any part of the deficiency.

19 (e) INCREASE OF DEFICIENCY AFTER NOTICE
20 MAILED.—The Board shall have jurisdiction to redetermine
21 the correct amount of the deficiency even if the amount so
22 redetermined is greater than the amount of the deficiency,
23 notice of which has been mailed to the person against
24 whom the deficiency is asserted, and to determine
25 whether any additional amount or addition to the tax

1 should be assessed, if claim therefor is asserted by the Com-
2 missioner at or before the hearing or a rehearing.

3 (f) FURTHER DEFICIENCY LETTERS RESTRICTED.—

4 If the Commissioner has mailed to the person against whom
5 the deficiency is asserted notice of a deficiency as provided in
6 subsection (a) of this section, and such person files a petition
7 with the Board within the time prescribed in such subsection,
8 the Commissioner shall have no right to determine any addi-
9 tional deficiency in respect of such person in respect of the
10 same calendar year, except in the case of fraud, and except
11 as provided in subsection (e) of this section, relating to
12 assertion of greater deficiencies before the Board, or in sec-
13 tion 315 (c), relating to the making of jeopardy assessments.

14 If the person against whom the deficiency is asserted is
15 notified that, on account of a mathematical error appearing
16 upon the face of the return, an amount of tax in excess of
17 that shown upon the return is due, and that an assessment
18 of the tax has been or will be made on the basis of what
19 would have been the correct amount of tax but for the mathe-
20 matical error, such notice shall not be considered (for the
21 purposes of this subsection, or of subsection (a) of this
22 section, prohibiting assessment and collection until notice
23 of deficiency has been mailed, or of section 329 (c), pro-
24 hibiting credits or refunds after petition to the Board of
25 Tax Appeals) as a notice of a deficiency, and such person

1 shall have no right to file a petition with the Board based
2 on such notice, nor shall such assessment or collection be
3 prohibited by the provisions of subsection (a) of this section.

4 (g) JURISDICTION OVER OTHER CALENDAR YEARS.—
5 The Board in redetermining a deficiency in respect of any
6 calendar year shall consider such facts with relation to the
7 taxes for other calendar years as may be necessary correctly
8 to redetermine the amount of such deficiency, but in so
9 doing shall have no jurisdiction to determine whether or
10 not the tax for any other calendar year has been overpaid
11 or underpaid.

12 (h) FINAL DECISIONS OF BOARD.—For the purposes
13 of this title the date on which a decision of the Board
14 becomes final shall be determined according to the provisions
15 of section 1005 of the Revenue Act of 1926.

16 (i) EXTENSION OF TIME FOR PAYMENT OF DE-
17 FICIENCIES.—Where it is shown to the satisfaction of the
18 Commissioner that the payment of a deficiency upon the
19 date prescribed for the payment thereof will result in
20 undue hardship the Commissioner, with the approval
21 of the Secretary (except where the deficiency is due to
22 negligence, to intentional disregard of rules and regulations,
23 or to fraud with intent to evade tax), may grant an exten-
24 sion for the payment of such deficiency or any part thereof
25 for a period not in excess of eighteen months, and, in excep-

1 tional cases, for a further period not in excess of twelve
2 months. If an extension is granted, the Commissioner may
3 require the furnishing of a bond in such amount, not
4 exceeding double the amount of the deficiency, and with
5 such sureties, as the Commissioner deems necessary, con-
6 ditioned upon the payment of the deficiency in accordance
7 with the terms of the extension.

8 (j) ADDRESS FOR NOTICE OF DEFICIENCY.—In the
9 absence of notice to the Commissioner under section 328 (a)
10 of the existence of a fiduciary relationship, notice of a de-
11 ficiency in respect of a tax imposed by this title, if mailed
12 to the person against whom the deficiency is asserted at
13 his last known address, shall be sufficient for the purposes
14 of this title even if such person is deceased, or is under a
15 legal disability.

16 SEC. 315. JEOPARDY ASSESSMENTS

17 (a) AUTHORITY FOR MAKING.—If the Commissioner
18 believes that the assessment or collection of a deficiency will
19 be jeopardized by delay, he shall immediately assess such
20 deficiency (together with all interest, additional amounts,
21 or additions to the tax provided for by law) and notice and
22 demand shall be made by the collector for the payment
23 thereof.

24 (b) DEFICIENCY LETTERS.—If the jeopardy assess-
25 ment is made before any notice in respect of the tax to which

1 the jeopardy assessment relates has been mailed under sec-
2 tion 314 (a), then the Commissioner shall mail a notice under
3 such subsection within sixty days after the making of the
4 assessment.

5 (c) AMOUNT ASSESSABLE BEFORE DECISION OF
6 BOARD.—The jeopardy assessment may be made in respect
7 of a deficiency greater or less than that notice of which has
8 been mailed to the person against whom the deficiency is
9 asserted, despite the provisions of section 314 (f) prohibit-
10 ing the determination of additional deficiencies, and whether
11 or not he has theretofore filed a petition with the Board of
12 Tax Appeals. The Commissioner shall notify the Board
13 of the amount of such assessment, if the petition is filed
14 with the Board before the making of the assessment or is
15 subsequently filed, and the Board shall have jurisdiction
16 to redetermine the entire amount of the deficiency and of
17 all amounts assessed at the same time in connection
18 therewith.

19 (d) AMOUNT ASSESSABLE AFTER DECISION OF
20 BOARD.—If the jeopardy assessment is made after the
21 decision of the Board is rendered such assessment may be
22 made only in respect of the deficiency determined by the
23 Board in its decision.

24 (e) EXPIRATION OF RIGHT TO ASSESS.—A jeopardy
25 assessment may not be made after the decision of the Board

1 has become final or after the filing of a petition for review
2 of the decision of the Board.

3 (f) BOND TO STAY COLLECTION.—When a jeopardy
4 assessment has been made the person against whom the
5 deficiency is asserted, within ten days after notice
6 and demand from the collector for the payment of
7 the amount of the assessment, may obtain a stay of collection
8 of the whole or any part of the amount of the assessment
9 by filing with the collector a bond in such amount, not
10 exceeding double the amount as to which the stay is desired,
11 and with such sureties, as the collector deems necessary,
12 conditioned upon the payment of so much of the amount, the
13 collection of which is stayed by the bond, as is not abated
14 by a decision of the Board which has become final, together
15 with interest thereon as provided in section 324 or 325
16 (b) (4).

17 (g) SAME—FURTHER CONDITIONS.—If the bond is
18 given before the person against whom the deficiency
19 is asserted has filed his petition with the Board
20 under section 314(a), the bond shall contain a further
21 condition that if a petition is not filed within the period
22 provided in such subsection, then the amount the collection
23 of which is stayed by the bond will be paid on notice and
24 demand at any time after the expiration of such period,
25 together with interest thereon at the rate of 6 per centum

1 per annum from the date of the jeopardy notice and demand
2 to the date of notice and demand under this subsection.

3 (h) WAIVER OF STAY.—Upon the filing of the bond
4 the collection of so much of the amount assessed as is covered
5 by the bond shall be stayed. The person against
6 whom the deficiency is asserted shall have the right
7 to waive such stay at any time in respect of the whole
8 or any part of the amount covered by the bond, and if as a
9 result of such waiver any part of the amount covered by
10 the bond is paid, then the bond shall, at the request of the
11 person against whom the deficiency is asserted, be pro-
12 portionately reduced. If the Board determines that the
13 amount assessed is greater than the amount which should
14 have been assessed, then when the decision of the Board
15 is rendered the bond shall, at the request of the person
16 against whom the deficiency is asserted, be proportionately
17 reduced.

18 (i) COLLECTION OF UNPAID AMOUNTS.—When the
19 petition has been filed with the Board and when the amount
20 which should have been assessed has been determined by a
21 decision of the Board which has become final, then any
22 unpaid portion, the collection of which has been stayed by
23 the bond, shall be collected as part of the tax upon notice
24 and demand from the collector, and any remaining portion
25 of the assessment shall be abated. If the amount already

1 collected exceeds the amount determined as the amount which
2 should have been assessed, such excess shall be credited or
3 refunded as provided in section 329, without the filing of
4 claim therefor. If the amount determined as the amount
5 which should have been assessed is greater than the amount
6 actually assessed, then the difference shall be assessed and
7 shall be collected as part of the tax upon notice and demand
8 from the collector.

9 **SEC. 316. CLAIMS IN ABATEMENT**

10 No claim in abatement shall be filed in respect of any
11 assessment in respect of any tax imposed by this title.

12 **SEC. 317. BANKRUPTCY AND RECEIVERSHIPS**

13 (a) **IMMEDIATE ASSESSMENT.**—Upon the adjudica-
14 tion of bankruptcy of any person against whom the defi-
15 ciency is asserted in any bankruptcy proceeding or the
16 appointment of a receiver for any person against whom the
17 deficiency is asserted in any receivership proceeding before
18 any court of the United States or of any State or Territory
19 or of the District of Columbia, any deficiency (together
20 with all interest, additional amounts, or additions to the
21 tax provided for by law) determined by the Commissioner
22 in respect of a tax imposed by this title upon such person
23 shall, despite the restrictions imposed by section 314(a),
24 upon assessments be immediately assessed if such deficiency
25 has not theretofore been assessed in accordance with law.

1 Claims for the deficiency and such interest, additional
2 amounts and additions to the tax may be presented, for
3 adjudication in accordance with law, to the court before
4 which the bankruptcy or receivership proceeding is pend-
5 ing, despite the pendency of proceedings for the redeter-
6 mination of the deficiency in pursuance of a petition to the
7 Board; but no petition for any such redetermination shall
8 be filed with the Board after the adjudication of bankruptcy
9 or the appointment of the receiver.

(b) UNPAID CLAIMS.—Any portion of the claim allowed in such bankruptcy or receivership proceeding which is unpaid shall be paid by the person against whom the deficiency is asserted upon notice and demand from the collector after the termination of such proceeding, and may be collected by distress or proceeding in court within six years after termination of such proceeding. Extensions of time for such payment may be had in the same manner and subject to the same provisions and limitations as are provided in sections 314 (i), 322 (b), and 325 (b).

(3) in the case of a deficiency in a tax imposed by this title.

21 SEC. 318. PERIOD OF LIMITATION UPON ASSESSMENT
22 AND COLLECTION

23 (a) GENERAL RULE.—Except as provided in subsec-
24 tion (b), the amount of taxes imposed by this title shall

1 be assessed within three years after the return was filed,
2 and no proceeding in court without assessment for the col-
3 lection of such taxes shall be begun after the expiration of
4 three years after the return was filed.

5 (b) EXCEPTIONS.—

6 (1) FALSE RETURN OR NO RETURN.—In the
7 case of a false or fraudulent return with intent to evade
8 tax or of a failure to file a return the tax may be
9 assessed, or a proceeding in court for the collection of
10 such tax may be begun without assessment, at any
11 time.

12 (2) COLLECTION AFTER ASSESSMENT.—Where
13 the assessment of any tax imposed by this title has
14 been made within the statutory period of limitation
15 properly applicable thereto, such tax may be collected
16 by distress or by a proceeding in court, but only if
17 begun (1) within six years after the assessment of
18 the tax, or (2) prior to the expiration of any period
19 for collection agreed upon in writing by the Commis-
20 sioner and the person against whom the assessment is
21 made.

22 **SEC. 319. SUSPENSION OF RUNNING OF STATUTE**

23 The running of the statute of limitations provided in
24 section 318 on the making of assessments and the beginning
25 of distress or a proceeding in court for collection, in respect

1 of any deficiency, shall (after the mailing of a notice under
2 section 314(a)) be suspended for the period during which
3 the Commissioner is prohibited from making the assessment
4 or beginning distress or a proceeding in court (and in any
5 event, if a proceeding in respect of the deficiency is placed
6 on the docket of the Board, until the decision of the Board
7 becomes final), and for sixty days thereafter.

8 **SEC. 320. ADDITIONS TO THE TAX IN CASE OF FAILURE
9 TO FILE RETURN**

10 In case of any failure to make and file a return required
11 by this title, within the time prescribed by law or prescribed
12 by the Commissioner in pursuance of law, 25 per centum
13 of the tax shall be added to the tax, except that when a
14 return is filed after such time and it is shown that the
15 failure to file it was due to reasonable cause and not due
16 to willful neglect no such addition shall be made to the tax.
17 The amount so added to any tax shall be collected at the
18 same time and in the same manner and as a part of the
19 tax unless the tax has been paid before the discovery of
20 the neglect, in which case the amount so added shall be
21 collected in the same manner as the tax. The amount
22 added to the tax under this section shall be in lieu of the
23 25 per centum addition to the tax provided in section 3176
24 of the Revised Statutes, as amended.

I SEC. 321. ADDITIONS TO THE TAX IN CASE OF DEFICIENCY

(a) NEGLIGENCE.—If any part of any deficiency is due to negligence, or intentional disregard of rules and regulations but without intent to defraud, 5 per centum of the total amount of the deficiency (in addition to such deficiency) shall be assessed, collected, and paid in the same manner as if it were a deficiency, except that the provisions of section 323, relating to interest on deficiencies, shall not be applicable.

(b) FRAUD.—If any part of any deficiency is due to fraud with intent to evade tax, then 50 per centum of the total amount of the deficiency (in addition to such deficiency) shall be so assessed, collected, and paid, in lieu of the 50 per centum addition to the tax provided in section 3176 of the Revised Statutes, as amended.

SEC. 322. INTEREST ON EXTENDED PAYMENTS

(a) TAX SHOWN ON RETURN.—If the time for payment of the amount determined as the tax by the donor is extended under the authority of section 310(d), there shall be collected as a part of such amount, interest thereon at the rate of 6 per centum per annum from the date when such payment should have been made if no extension had been granted, until the expiration of the period of the extension.

1 (b) DEFICIENCY.—In case an extension for the pay-
2 ment of a deficiency is granted, as provided in section
3 314 (i), there shall be collected, as a part of the tax, interest
4 on the part of the deficiency the time for payment of which
5 is so extended, at the rate of 6 per centum per annum for
6 the period of the extension, and no other interest shall be
7 collected on such part of the deficiency for such period.

8 **SEC. 323. INTEREST ON DEFICIENCIES**

9 Interest upon the amount determined as a deficiency
10 shall be assessed at the same time as the deficiency, shall be
11 paid upon notice and demand from the collector, and shall
12 be collected as a part of the tax, at the rate of 6 per centum
13 per annum from the due date of the tax to the date the
14 deficiency is assessed, or, in the case of a waiver under
15 section 314 (d), to the thirtieth day after the filing of such
16 waiver or to the date the deficiency is assessed whichever
17 is the earlier.

18 **SEC. 324. INTEREST ON JEOPARDY ASSESSMENTS**

19 In the case of the amount collected under section
20 315 (f) there shall be collected at the same time as such
21 amount, and as a part of the tax, interest at the rate of 6
22 per centum per annum upon such amount from the date
23 of the jeopardy notice and demand to the date of notice
24 and demand under section 315 (i), or, in the case of the
25 amount collected in excess of the amount of the jeopardy
26 assessment, interest as provided in section 323.

1 SEC. 325. ADDITIONS TO THE TAX IN CASE OF NONPAY-
2 MENT

3 (a) TAX SHOWN ON RETURN.—

4 (1) PAYMENT NOT EXTENDED.—Where the
5 amount determined by the person liable for the
6 tax as the tax imposed by this title, or any
7 part of such amount, is not paid on the due
8 date of the tax, there shall be collected as a
9 part of the tax, interest upon such unpaid amount at
10 the rate of 1 per centum a month from the due date
11 until it is paid.

12 (2) PAYMENT EXTENDED.—Where an extension
13 of time for payment of the amount so determined as
14 the tax has been granted, and the amount the
15 time for payment of which has been extended, and
16 the interest thereon determined under section 322(a),
17 is not paid in full prior to the expiration of the period
18 of the extension, then, in lieu of the interest provided
19 for in paragraph (1) of this subsection, interest at the
20 rate of 1 per centum a month shall be collected on
21 such unpaid amount from the date of the expiration
22 of the period of the extension until it is paid.

23 (b) DEFICIENCY.—

24 (1) PAYMENT NOT EXTENDED.—Where a defi-
25 ciency, or any interest assessed in connection therewith

1 under section 323, or any addition to the tax provided
2 for in section 3176 of the Revised Statutes, is not paid
3 in full within ten days from the date of notice and
4 demand from the collector, there shall be collected as
5 part of the tax, interest upon the unpaid amount at the
6 rate of 1 per centum a month from the date of such
7 notice and demand until it is paid.

8 (2) **FILING OF JEOPARDY BOND.**—If a bond is
9 filed, as provided in section 315, the provisions of
10 paragraph (1) of this subsection shall not apply to the
11 amount covered by the bond.

12 (3) **PAYMENT EXTENDED.**—If the part of the
13 deficiency the time for payment of which is extended
14 as provided in section 314 (i) is not paid in accordance
15 with the terms of the extension, there shall be col-
16 lected, as a part of the tax, interest on such unpaid
17 amount at the rate of 1 per centum a month for the
18 period from the time fixed by the terms of the exten-
19 sion for its payment until it is paid, and no other in-
20 terest shall be collected on such unpaid amount for
21 such period.

22 (4) **JEOPARDY ASSESSMENT — P A Y M E N T**
23 **STAYED BY BOND.**—If the amount included in the
24 notice and demand from the collector under section
25 315 (i) is not paid in full within 10 days after such

1 notice and demand, then there shall be collected, as
2 part of the tax, interest upon the unpaid amount at
3 the rate of 1 per centum a month from the date of
4 such notice and demand until it is paid.

5 (5) INTEREST IN CASE OF BANKRUPTCY AND
6 RECEIVERSHIPS.—If the unpaid portion of the claim
7 allowed in a bankruptcy or receivership proceeding,
8 as provided in section 317, is not paid in full within
9 ten days from the date of notice and demand from the
10 collector, then there shall be collected as a part of
11 such amount interest upon the unpaid portion thereof
12 at the rate of 1 per centum a month from the date of
13 such notice and demand until payment.

14 **SEC. 326. PENALTIES**

15 (a) Any person required under this title to pay any
16 tax, or required by law or regulations made under authority
17 thereof to make a return, keep any records, or supply any
18 information, for the purposes of the computation, assess-
19 ment, or collection of any tax imposed by this title, who
20 willfully fails to pay such tax, make such return, keep such
21 records, or supply such information, at the time or times
22 required by law or regulations, shall, in addition to other
23 penalties provided by law, be guilty of a misdemeanor and,
24 upon conviction thereof, be fined not more than \$10,000, or

1 imprisoned for not more than one year, or both, together
2 with the costs of prosecution.

3 (b) Any person who willfully attempts in any man-
4 ner to evade or defeat any tax imposed by this title or the
5 payment thereof, shall, in addition to other penalties pro-
6 vided by law, be guilty of a felony and, on conviction
7 thereof, be fined not more than \$10,000, or imprisoned for
8 not more than five years, or both, together with the costs
9 of prosecution.

10 **SEC. 327. TRANSFERRED ASSETS**

11 (a) **METHOD OF COLLECTION.**—The amounts of the
12 following liabilities shall, except as hereinafter in this sec-
13 tion provided, be assessed, collected, and paid in the same
14 manner and subject to the same provisions and limitations
15 as in the case of a deficiency in the tax imposed by this
16 title (including the provisions in case of delinquency in
17 payment after notice and demand, the provisions authoriz-
18 ing distraint and proceedings in court for collection, and the
19 provisions prohibiting claims and suits for refunds) :

20 (1) **TRANSFEREES.**—The liability, at law or in
21 equity, of a transferee of property, in respect of
22 the tax (including interest, additional amounts, and
23 additions to the tax provided by law) imposed by
24 this title.

1 (2) FIDUCIARIES.—The liability of a fiduciary
2 under section 3467 of the Revised Statutes, as amended,
3 in respect of the payment of any tax imposed by this
4 title.

5 Any such liability may be either as to the amount of tax
6 shown on the return or as to any deficiency in tax.

7 (b) PERIOD OF LIMITATION.—The period of limitation
8 for assessment of any such liability of a transferee or fiduciary
9 shall be as follows:

10 (1) Within one year after the expiration of the
11 period of limitation for assessment against the person
12 liable for the tax.

13 (2) If a court proceeding against the person
14 liable for the tax for the collection of the tax has been
15 begun within the period provided in paragraph (1),—
16 then within one year after return of execution in such
17 proceeding.

18 (c) PERIOD FOR ASSESSMENT AGAINST PERSON
19 LIABLE FOR TAX.—For the purposes of this section, if the
20 person liable for the tax is deceased, the period of limitation
21 for assessment against him shall be the period that would
22 be in effect had the death not occurred.

23 (d) SUSPENSION OF RUNNING OF STATUTE OF LIMITATIONS.—The running of the statute of limitations upon

1 the assessment of the liability of a transferee or fiduciary
2 shall, after the mailing of the notice under section 314 (a)
3 to the transferee or fiduciary, be suspended for the period
4 during which the Commissioner is prohibited from making
5 the assessment in respect of the liability of the transferee
6 or fiduciary (and in any event, if a proceeding in respect
7 of the liability is placed on the docket of the Board, until
8 the decision of the Board becomes final), and for sixty days
9 thereafter.

10 (e) PROHIBITION OF SUITS TO RESTRAIN ENFORCE-
11 MENT OF LIABILITY OF TRANSFEE OR FIDUCIARY.—
12 No suit shall be maintained in any court for the purpose of
13 restraining the assessment or collection of (1) the amount
14 of the liability, at law or in equity, of a transferee of prop-
15 erty of a donor in respect of any tax under this title, or (2)
16 the amount of the liability of a fiduciary under section 3467
17 of the Revised Statutes, as amended, in respect of any such
18 tax.

19 (f) DEFINITION OF "TRANSFEE".—As used in
20 this section, the term "transferee" includes donee, heir,
21 legatee, devisee, and distributee.

22 (g) ADDRESS FOR NOTICE OF LIABILITY.—In the ab-
23 sence of notice to the Commissioner under section 328 (b)
24 of the existence of a fiduciary relationship, notice of liability

1 enforceable under this section in respect of a tax imposed by
2 this title, if mailed to the person subject to the liability at
3 his last known address, shall be sufficient for the purposes
4 of this title even if such person is deceased, or is under a
5 legal disability, or, in the case of a corporation, has termi-
6 nated its existence.

7 **SEC. 328. NOTICE OF FIDUCIARY RELATIONSHIP**

8 (a) **FIDUCIARY OF PERSON LIABLE FOR TAX.**—Upon
9 notice to the Commissioner that any person is acting in a
10 fiduciary capacity such fiduciary shall assume the powers,
11 rights, duties, and privileges of the person liable for the
12 tax in respect of a tax imposed by this title (except as other-
13 wise specifically provided and except that the tax shall be
14 collected from the estate of the person liable for the tax),
15 until notice is given that the fiduciary capacity has
16 terminated.

17 (b) **FIDUCIARY OF TRANSFEREE.**—Upon notice to the
18 Commissioner that any person is acting in a fiduciary ca-
19 pacity for a person subject to the liability specified in section
20 327, the fiduciary shall assume, on behalf of such person, the
21 powers, rights, duties, and privileges of such person under
22 such section (except that the liability shall be collected from
23 the estate of such person), until notice is given that the
24 fiduciary capacity has terminated.

1 (c) MANNER OF NOTICE.—Notice under subsection
2 (a) or (b) shall be given in accordance with regulations
3 prescribed by the Commissioner with the approval of the
4 Secretary.

5 **SEC. 329. REFUNDS AND CREDITS**

6 (a) AUTHORIZATION.—Where there has been an over-
7 payment of any tax imposed by this title, the amount of
8 such overpayment shall be credited against any tax imposed
9 by this title then due from the taxpayer, and any balance
10 shall be refunded immediately to the taxpayer.

11 (b) LIMITATION ON ALLOWANCE.—

12 (1) PERIOD OF LIMITATION.—No such credit
13 or refund shall be allowed or made after three years
14 from the time the tax was paid, unless before the
15 expiration of such period a claim therefor is filed by
16 the taxpayer.

17 (2) LIMIT ON AMOUNT OF CREDIT OR REFUND.—
18 The amount of the credit or refund shall not exceed the
19 portion of the tax paid during the three years imme-
20 diately preceding the filing of the claim, or if no claim
21 was filed, then during the three years immedately
22 preceding the allowance of the credit or refund.

23 (c) EFFECT OF PETITION TO BOARD.—If the Com-
24 missioner has mailed to the taxpayer a notice of deficiency

1 under section 314(a) and if the taxpayer files a petition
2 with the Board of Tax Appeals within the time prescribed
3 in such subsection, no credit or refund in respect of the
4 tax for the calendar year in respect of which the Commis-
5 sioner has determined the deficiency shall be allowed or
6 made and no suit by the taxpayer for the recovery of any
7 part of such tax shall be instituted in any court except—

8 (1) As to overpayments determined by a deci-
9 sion of the Board which has become final; and

10 (2) As to any amount collected in excess of an
11 amount computed in accordance with the decision of
12 the Board which has become final; and

13 (3) As to any amount collected after the period
14 of limitation upon the beginning of distress or a pro-
15 ceeding in court for collection has expired; but in any
16 such claim for credit or refund or in any such suit
17 for refund the decision of the Board which has become
18 final, as to whether such period has expired before
19 the notice of deficiency was mailed, shall be conclusive.

20 (d) OVERPAYMENT FOUND BY BOARD.—If the Board
21 finds that there is no deficiency and further finds that the
22 taxpayer has made an overpayment of tax in respect of
23 the taxable year in respect of which the Commissioner
24 determined the deficiency, the Board shall have jurisdiction
25 to determine the amount of such overpayment, and such

1 amount shall, when the decision of the Board has become
2 final, be credited or refunded to the taxpayer. No such
3 credit or refund shall be made of any portion of the tax
4 unless the Board determines as part of its decision that it
5 was paid within three years before the filing of the claim
6 or the filing of the petition, whichever is earlier.

7 **SEC. 330. LAWS MADE APPLICABLE**

8 All administrative, special, or stamp provisions of law,
9 including the law relating to the assessment of taxes, so far
10 as applicable, are hereby extended to and made a part of
11 this title.

12 **SEC. 331. RULES AND REGULATIONS**

13 The Commissioner, with the approval of the Secretary,
14 shall prescribe and publish all needful rules and regulations
15 for the enforcement of this title.

16 **SEC. 332. DEFINITIONS**

17 For the purposes of this title—

18 (a) **CALENDAR YEAR.**—The term “calendar year”
19 includes only the calendar year 1935 and succeeding calendar
20 years, and, in the case of the calendar year 1935, includes
21 only the portion of such year after the date of the enactment
22 of this Act.

23 (b) **PROPERTY.**—The term “property” means any
24 property, real or personal, tangible or intangible, or any
25 interest therein or income therefrom. Any right in respect

1 of any property which, however exercisable, is exercisable
2 by the holder of the right (either alone or in conjunction
3 with any other person) in favor of such holder, in favor of
4 his estate, or in favor of one or more of his creditors shall,
5 for the purposes of this title, be deemed the equivalent of
6 such property; and the exercise of such right in favor of
7 any person shall be considered as a transfer by such holder
8 to such person of the property.

9 (c) PROPERTY WITHIN UNITED STATES.—Stock in
10 a domestic corporation or any obligation of a resident,
11 corporate or otherwise, owned by a nonresident donor shall
12 be deemed property situated within the United States.

13 (d) COLLECTOR.—The term “collector” means
14 collector of internal revenue.

15 TITLE IV—GENERAL PROVISIONS

16 SEC. 401. DEFINITIONS

17 (a) When used in this Act—

18 (1) The term “person” means an individual, a
19 trust or estate, a partnership, or a corporation.

20 (2) The term “corporation” includes associa-
21 tions, joint-stock companies, and insurance companies.

22 (3) The term “domestic” when applied to a
23 corporation or partnership means created or organized
24 in the United States or under the law of the United
25 States or of any State or Territory.

1 (4) The term "foreign" when applied to a corporation or partnership means a corporation or partnership which is not domestic.

4 (5) The term "stock" includes the share in an association, joint-stock company, or insurance company.

6 (6) The term "shareholder" includes a member in an association, joint-stock company, or insurance company.

9 (7) The term "United States" when used in a geographical sense includes only the States, the Territories of Alaska and Hawaii, and the District of Columbia.

13 (8) The term "Secretary" means the Secretary of the Treasury.

15 (9) The term "Commissioner" means the Commissioner of Internal Revenue.

17 (b) The terms "includes" and "including" when used in a definition contained in this Act shall not be deemed to exclude other things otherwise within the meaning of the term defined.

21 **SEC. 402. SEPARABILITY CLAUSE**

22 If any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder

1 of the Act, and the application of such provisions to other
2 persons or circumstances, shall not be affected thereby.

3 SEC. 403. EFFECTIVE DATE OF ACT

4 Except as otherwise provided, this Act shall take effect
5 upon its enactment.

To provide revenue, equalize taxation, and for
other purposes.

By Mr. DOUGHTON

JULY 29, 1935

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